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Environment & Climate News

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Lung Association Distorts Air Quality Data

Ben Lieberman

The American Lung Association's (ALA) new study, *State of the Air: 2003*, gave a failing grade on air quality to more than half the nation's counties. Its findings, while widely and uncritically reported by the popular press, are at odds with the data and more credible sources.

For example, the *2003 Index of Environmental Indicators*, a joint effort of the Pacific Research Institute and American Enterprise Institute (PRI-AEI), described the improvements in air quality as "probably the greatest environmental success story of the last generation." While the ALA report attracted most of the media attention, the PRI-AEI study seems to better reflect the truth about the nation's air quality.

Ozone-Only Bias

The ALA's *State of the Air: 2003* focused almost entirely on ozone, only one of six so-called "criteria pollutants" regulated under the 1970 Clean Air Act. Ambient levels of the other five—sulfur dioxide, nitrogen dioxide, carbon monoxide, particulate matter, and lead—have fallen markedly, according to EPA.

AIR QUALITY continued on page 15

EPA: Environment Getting Cleaner, Safer

Jay Lehr, Ph.D.

Christie Whitman's departure from the leadership of the U.S. Environmental Protection Agency was marked by one of the few really outstanding accomplishments of her tenure. During her final week on the job, Whitman released EPA's *Draft Report on the Environment*—an accurate and up-to-date account of the dramatic improvement in air and water quality in the U.S.

A Compromise Candidate

Whitman, whose record as governor of New Jersey placed her to the left of the Republican mainstream, was a compromise candidate for President George W. Bush, who felt he needed an EPA administrator who would not be a lightning rod for environmental zealots.

Whitman had a mediocre record on the environment during her term as governor of New Jersey—which meant she pleased no one, and that evidently qualified her for the EPA job in the convoluted thinking of political strategists. True to form, Whitman pleased no one at EPA ... until the very end, when she allowed her agency to come clean about the environment.

WHITMAN continued on page 14

Secondhand Smoke Fears Overstated

James M. Taylor

A 38-year study of Californians, begun by the American Cancer Society and concluded by the University of California at Los Angeles (UCLA), has concluded that secondhand smoke has little if any negative impact on mortality.

The study, published in the May 17 issue of the *British Medical Journal*, throws cold water on the efforts of state and local governments to ban smoking in restaurants and other public places in the name of public health.

100,000 Californians Studied

From 1959 through 1998, the American Cancer Society tracked a broad cross-section of more than 100,000 Californians, dividing the study participants according to whether or not they were married to smokers. Researchers also monitored participants' exposure to other sources of environmental tobacco smoke.

In 1999, UCLA epidemiologist James Enstrom and State University of New York epidemiologist Geoffrey Kabat

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NAS Rejects New Dioxin Regulation

KRT

The National Academy of Sciences says eating a healthy, balanced diet is better than government regulation as a way to lower exposure to dioxins in food.

James M. Taylor

After decades at the top of the list of "deadly chemicals" decried by liberal environmentalists, dioxin's risk has been found to be too small to merit new government regulations.

Common-sense dietary balance, rather than restrictive government regulation, should guide people in reducing their intake of dioxin, reported the Institute of Medicine of the National Academy of Sciences (NAS) on July 1.

The NAS report culminated a decade-long dioxin assessment begun by the Environmental Protection Agency, but then transferred to the NAS after other federal agencies questioned EPA's impartiality and commitment to sound scientific principles.

Controversial Chemical

Dioxins are long-lasting compounds that accumulate in the body fat of

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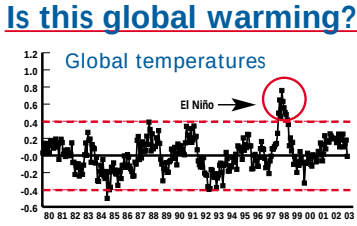
Is this global warming?



Each month, Earth Track updates the global averaged monthly satellite measurements of the Earth's temperature. See page 8.

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HYPOCRISY WATCH

Army Corps Polluting Columbia Basin Rivers

Feds cite "national security" in refusal to admit state inspectors

James M. Taylor

The rainbow colors dancing on the Pacific Northwest's Columbia River paint an irrefutable picture.

Trailing 200 feet downstream from the Bonneville Dam, the vibrant colors betray an ever-replenishing oil spill emanating from the inner workings of the dam. Lesser spills than this have led to stiff penalties and heavy fines against private industry.

But in this case, the offending dam is owned and operated by the Army Corps of Engineers. Washington and Oregon state officials are fuming… because they can't do anything about it.

National Security At Issue?

The Corps has been frequently accused of trampling private citizens' rights in enforcing its own environmental protection rules. Yet it refuses to fix the polluting dam, and refuses to submit to state environmental protection laws.

According to the *Seattle Times*, Oregon and Washington officials have issued the Corps four separate violation notices for the Bonneville Dam. The Corps says it has no intention of honoring the notices. According to the Corps, the states have no authority to question what occurs in a federal dam. Moreover, the Corps has refused to share information with the states, alleging that sharing such information will expose the dams to terrorism threats.

"I guess the standoff gives fresh meaning to the phrase 'national security leaks,'" deadpanned Southern Oregon University professor Les AuCoin.

"The Corps is not required to follow state regulatory controls over the operation of generators, turbines, galleries, sumps, and pumping operations within our federal facilities," claimed Brigadier General David Fastabend in a March 31 letter to Washington's Department of Ecology.

Defying the Law

Responded AuCoin, "The Corps of Engineers may not be a private business, but it's still subject to the Clean Water Act and the Endangered Species Act. Trouble is, no one is forcing it to comply with the law."

Oil can be toxic to fish and wildlife, and state officials argue repeated oil spills threaten endangered salmon. However, availing itself of an argument it frequently derides when presented by private citizens, the Corps asserts its continual spills are harmless because the river dilutes the oil before it can harm the fish.

"Even a small amount of oil escaping over a long time adds up to a lot of oil," responded Chris Kaufman of the Oregon Department of Environmental Quality.

Private citizens can be forgiven for crying "hypocrisy," according to spill responder Ron Holcomb, who works for Washington's Department of Ecology. "There's no question, had this been a private industry, there would have been significant financial penalties issued for those spills, and the penalties would be continuing."

Cover-Up

What's worse, according to AuCoin, is that "state officials have found a paper trail showing that workers at the Bonneville Dam had illegally used soaplike compounds to mask the leaks. The compounds make the oil invisible to people—advantage Corps of Engineers. Unfortunately, they may make the oil more toxic—disadvantage, endangered fish.

"National security claims are a good way to cover up the misdeeds of government," observed AuCoin. However, "a wise man once said, 'A basic principle of democracy is that transparency, not opaqueness, is the public's first safeguard against scoundrels and fools.'"

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Climate Change: The Science Isn't Settled

James Schlesinger

Despite the certainty many seem to feel about the causes, effects, and extent of climate change, we are in fact making only slow progress in our understanding of the underlying science.

My old professor at Harvard, the great economist Joseph Schumpeter, used to insist that a principal tool of economic science was history—which served to temper the enthusiasms of the here and now. This must be even more so in climatological science. In recent years the inclination has been to attribute the warming we have lately experienced to a single dominant cause—the increase in greenhouse gases. Yet climate has always been changing—and sometimes the swings have been rapid.

"Beyond these few facts science remains unable either to attribute past climate changes to changes in CO2, or to forecast with any degree of precision how climate will change in the future."

At the time the U.S. Department of Energy was created in 1977, there was widespread concern about the *cooling trend* that had been observed for the previous quarter-century. After 1940 the temperature, at least in the Northern Hemisphere, had dropped about one-half degree Fahrenheit—and more in the higher latitudes.

In 1974 the National Science Board, the governing body of the National Science Foundation, stated: "During the last 20 to 30 years, world temperature has fallen, irregularly at first but more sharply over the last decade." Two years earlier, the board had observed: "Judging from the record of the past interglacial ages, the present time of higher temperatures should be drawing to an end ... leading into the next glacial age." And in 1975 the National Academy of Sciences states: "The climates of the Earth have always been changing, and they will doubtless continue to do so in the future. How large these future changes will be, and where and how rapidly they will occur, we do not know."

These statements—just a quarter-century old—should provide us with a dose of humility as we look into the more distant future. A touch of that humility might help temper the current raging controversies over global warming. What has concerned me in recent years is that belief in the greenhouse effect, persuasive as it is, has been transmuted into the dominant forcing mechanism affecting climate change—more or less to the exclusion of other forcing mechanisms. The CO2/climate change relationship has hardened into orthodoxy—always a worrisome sign—an orthodoxy that searches out heretics and seeks to punish them.

We are in command of certain essential facts. First, since the start of the 20th century, the mean temperature at the Earth's surface has risen about 1 degree Fahrenheit. Second, the level of CO2 in the atmosphere has been increasing for more than 150 years. Third, CO2 is a greenhouse gas—and increases in it, other things being equal, are likely to lead to further warming. Beyond these few facts science remains unable either to attribute past climate changes to changes in CO2, or to forecast with any degree of precision how climate will change in the future.

Of the rise in temperature during the 20th century, the bulk occurred from1900 to 1940. It was followed by the aforementioned cooling trend from 1940 to around 1975. Yet the concentration of greenhouse gases was measurably higher in that later period than in the former. That drop in temperature came after what was described in the *National Geographic* as "six decades of abnormal warmth."

In recent years much attention has been paid in the press to longer growing seasons and shrinking glaciers. Yet in the earlier period up to 1975, the annual growing season in England had shrunk by some nine or 10 days, summer frosts in the upper Midwest occasionally damaged crops, the glaciers in Switzerland had begun to advance again, and sea ice had returned to Iceland's coasts after more than 40 years of its near absence.

When we look over the past millennium, the questions that arise are even more perplexing. The so-called Climatic Optimum of the early Middle Ages, when the Earth temperatures were 1 to 2 degrees warmer than today and the Vikings established their flourishing colonies in Greenland, was succeeded by the Little Ice Age, lasting down to the early 19th century. Neither can be explained by concentrations of greenhouse gases. Moreover, through much of the Earth's history, increases in CO2 have followed global warming, rather than the other way around.

We cannot tell how much of the recent warming trend can be attributed to the greenhouse effect and how much to other factors. In climate change, we have only a limited grasp of the overall forces at work. Uncertainties have continued to abound—and must be reduced. Any approach to policy formation under conditions of such uncertainty should be taken only on an exploratory and sequential basis. A premature commitment to a fixed policy can only proceed with fear and trembling.

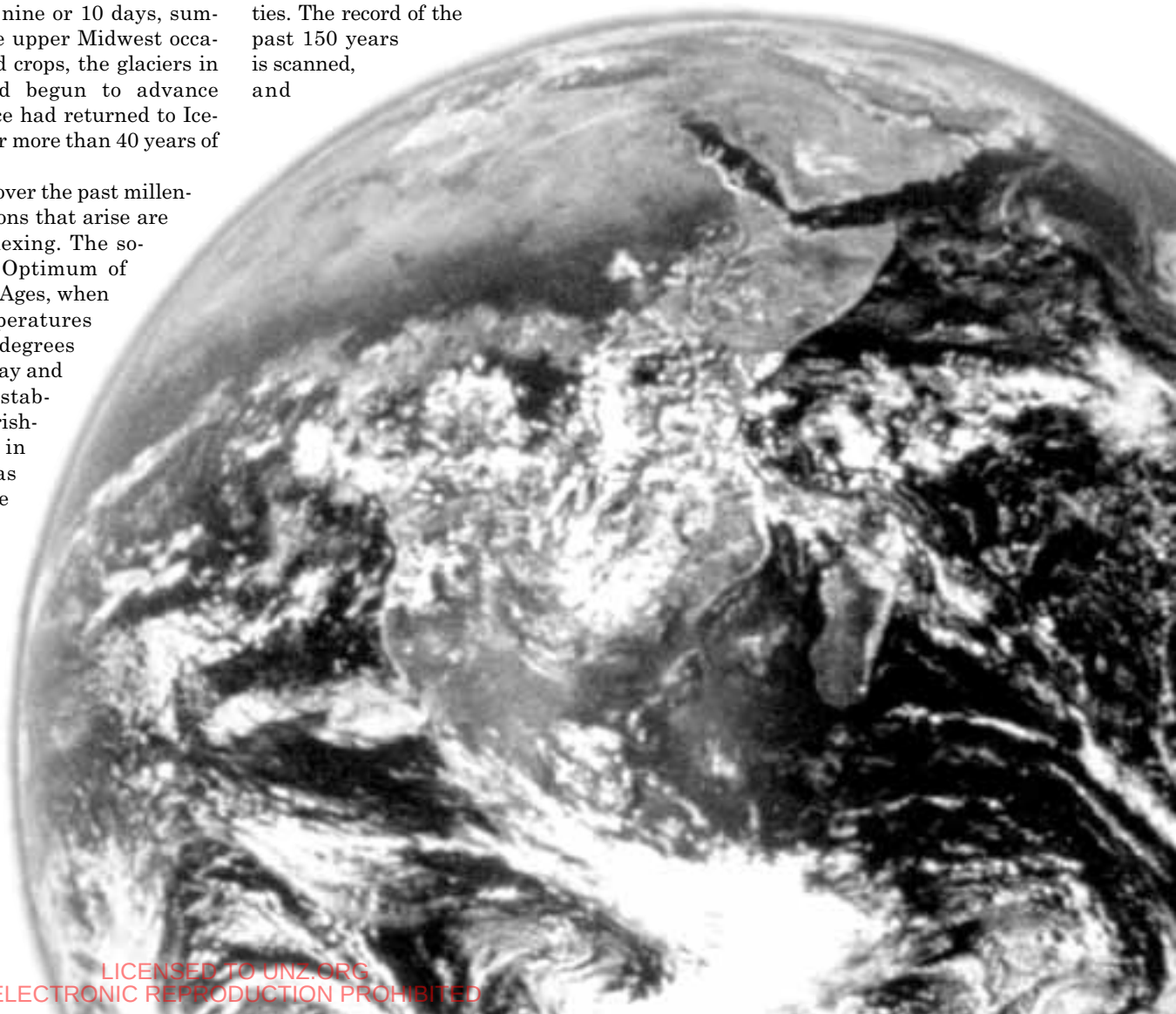
"Today we have far better instruments, better measurements, and better time series than we have ever had. Still, we are in danger of prematurely embracing certitudes and losing open-mindedness. We need to be more modest."

In the Third Assessment by the Intergovernmental Panel on Climate Change, recent climate change is attributed primarily to human causes, with the usual caveats regarding uncertainties. The record of the past 150 years is scanned, and three forcing mechanisms are highlighted: anthropogenic (human-caused) greenhouse gases, volcanoes, and the 11-year sunspot cycle. Other phenomena are represented poorly, if at all, and generally are ignored in these models. Because only the past 150 years are captured, the vast swings of the previous thousand years are not analyzed. The upshot is that any natural variations, other than volcanic eruptions, are overshadowed by anthropogenic greenhouse gases.

Most significant: The possibility of long-term cycles in solar activity is neglected because there is a scarcity of direct measurement. Nonetheless, solar irradiance and its variation seem highly likely to be a principal cause of long-term climatic change. Their role in longer-term weather cycles needs to be better understood.

There is an idea among the public that "the science is settled." Aside from the limited facts I cited earlier, that remains far from the truth. Today we have far better instruments, better measurements, and better time series than we have ever had. Still, we are in danger of prematurely embracing certitudes and losing open-mindedness. We need to be more modest.

James Schlesinger, who has served as secretary of energy, made these comments at a symposium on the 25th anniversary of the Energy Department's CO2/climate change program. This article first appeared in the July 7, 2003 issue of The Washington Post.



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Natural Gas "Shortage" Puts Crunch on Environment, Economy

Environmental irony: Activists force utilities to switch to coal

James M. Taylor

Natural gas supplies under current laws and regulations are unable to keep up with growing demand, testified Federal Reserve Chairman Alan Greenspan in a June 10 House Energy and Commerce Committee hearing. As a result, "we are not apt to return to earlier periods of relative abundance anytime soon."

The federal government has been encouraging, by both carrot and stick, a move to natural gas, a cleaner fuel alternative to oil and coal. But environmental restrictions have prevented energy producers from keeping pace with demand. As a result, reported the June 8 *Financial Times*, natural gas prices have increased by as much as 700 percent over the past three years.

The Energy Information Administration projects demand for natural gas will rise by 50 percent over the next 20 years, but domestic production will grow by only 14 percent unless restrictions on public lands are loosened.

Natural Gas Transformation

As a result of clean air laws and environmental restrictions, nearly all electric plants built since 1998 are designed to be fueled primarily by natural gas. Demand is up dramatically.

But environmental restrictions still reflect the pre-1998 status quo, when natural gas was used primarily as a home heating fuel. According to Energy Secretary Spencer Abraham, environmental restrictions have rendered off-limits nearly half of the huge natural gas reserves that lie beneath federal lands.

"At home, natural gas supplies from old wells are diminishing and permits to allow new domestic and offshore drilling have been slowed by environment regulation," reported Major Garrett of Fox News.

As a result, stored natural gas supplies have fallen to the lowest level since the federal government began keeping records more than 25 years ago.

Rising gas prices are taking their toll on industry, which is particularly sensitive to energy price spikes. The hardest hit sector is the fertilizer industry, for which natural gas represents 90 percent of the cost of ammonia, the building block of nitrogen fertilizers.

"The sorry thing is that there is gas to be found in this country but we can't get to it," said Robert Allison, chief executive of Anadarko Petroleum, a leading natural gas producer.

Environmental Restrictions Questioned

"There are actions that federal, state, and local governments can take to increase the availability of natural gas and help restrain price increases that damage consumers and the economy," said Consumer Alert's Glenn Schleede in congressional testimony delivered in July 2002. "Perhaps the most important action is to remove unnecessary restrictions on access to public lands and federally submerged lands for gas exploration and development."

Agence France Presse

Federal Reserve Chairman Alan Greenspan testifies before the House Energy and Commerce Committee on natural gas supply and demand issues on June 10, 2003.

"We're not running out of natural gas, and we're not running out of places to look for natural gas," said Keith Rattie, president of energy developer Questar. "However, we are running out of places we are allowed to look for gas."

"Radical environmental groups have held up safe energy production on federal lands," said House Resources Committee Chairman Richard Pombo (R-California). "Continuing moratoria, permitting backlogs, and radical environmentalist lawsuits have left Americans with as high as 1,000 percent price spikes in natural gas."

Representative Ron Kind (D-Wisconsin) replied that supply-and-demand arguments are "designed to frighten Americans consumers into a false sense of crisis" and weaken environmental protections in pristine areas.

However, a recent study by the Rand Corporation concluded that, "for the most part, the concentrations of economically recoverable gas exist in areas of relatively lower potential environmental concern."

Ironically, price spikes associated with restrictions on natural gas recovery have prompted electrical plants to switch to oil and coal, which emit more pollutants than natural gas. Drilling restrictions promoted to protect the environment are resulting in more air pollution than the U.S. would otherwise experience.

Declining Infrastructure

Another factor in the natural gas shortage is an inadequate and deteriorating infrastructure.

"An expanded network of natural gas pipelines is essential to getting gas supplies to market. The Interstate Natural Gas Association of America has estimated that between $60 billion and $70 billion in new interstate pipeline investment will be required over the next 12 to 15 years to meet the demands of the market," said Fred Fowler, chairman of the association. "And yet, onerous regulations and bureaucratic permitting processes have discouraged investment in new pipeline projects.

"Local opponents aren't shy about tossing federally approved, interstate pipeline projects on an endless regulatory merry-go-round, using layers of red tape to slow or even stifle needed infrastructure," Fowler added. "The 'not-in-my-backyard' argument tossed out by local opponents does not supersede need, and it should not be allowed to disrupt interstate projects blessed by a rigorous federal approval process."

Said Robert Bradley Jr., president of the Institute for Energy Research in Houston, "The first point is that natural gas reserves in both the U.S. and Canada are at all-time highs. Mother nature is not to blame for high prices. Lagging infrastructure is at fault, from wellhead production to pipeline capacity to move supply to markets."

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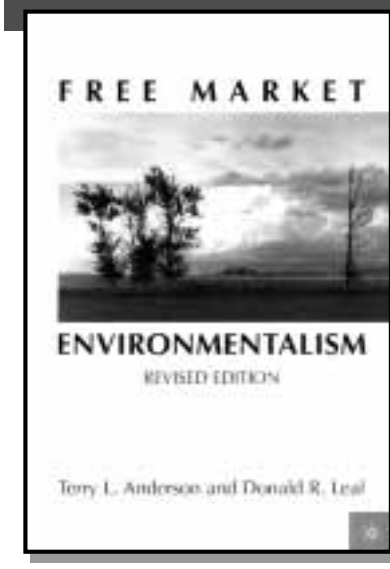

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Liberal Environmentalists Impede Natural Gas Development

William Perry Pendley

On June 10, Federal Reserve Chairman Alan Greenspan testified to Congress that environmental and energy concerns could cause "debilitating spikes" in the price of natural gas of more than $7.50 per million Btus. His comments generated national attention, but the problem is not new.

Three years ago, an independent petroleum geologist from Connecticut, speaking for the American Association of Petroleum Geologists, gave similar congressional testimony. He too predicted a natural gas price spike of more than $7.50 per million Btus. As a result, he projected, "residential gas consumers can expect a $200 to $300 increase in their winter gas-heating bills[, which] some can ill afford."

The geologist also noted America "has abundant natural gas resources to fuel the country well into the 21st Century." And he also declared that, despite abundant supplies of clear-burning natural gas, "the public has not had the will to permit access to the huge gas potential of its undeveloped public lands."

Rocky Mountain Bounty Thwarted

The onshore public land to which the Connecticut geologist referred lies within the Rocky Mountains and contains nearly 140 trillion cubic feet of natural gas.

In a January 2003 report to Congress, Energy Secretary Spencer Abraham noted 40 percent of that land is legally off-limits to gas development. And even the 60 percent considered available is likely an over-estimate of how much could be leased for development. Those lands must pass through the statutory, regulatory, and litigation gauntlet that is federal land use planning and environmental review. The process takes years to yield a decision, and any decision would inevitably be subjected to years of appeals and litigation.

"[R]esidential gas consumers can expect a $200 to $300 increase in their winter gas-heating bills[, which] some can ill afford."

Once a lease has been approved and is open for bidding, the assault on natural gas development begins in earnest. One leader of an anti-development environmental group threatened to sue anyone who "bid[s] on a lease on public land."

The ability of liberal environmental groups to thwart gas development is not limited to appeals and litigation. Stacks of environmental statutes, regulations, and judicial rulings—most the result of lobbying and litigating by these groups—impose severe restrictions on the ability of operators to do their jobs. The chief culprits involve protected species and archeological sites.

One Wyoming operator has fought for two years for a drilling permit on a barren plot in Sweetwater County's windswept desert. After submitting an $80,000 study, which yielded a "finding of no significant [environmental] impact," the operator was denied its drilling permits because a federal employee had discovered, belatedly, a pile of loose stones—a "cairn." The employee says it is an active religious site that will be disturbed by any drilling visible from the "cairn."

Maybe Greenspan is right, and the public has not reached a consensus regarding the proper balance between cairns in Wyoming and the cost of home heating fuel in Wisconsin. Maybe we'll be closer to that consensus this winter.

William Perry Pendley is president and chief legal officer of the Mountain States Legal Foundation. His email address is **info@mountainstateslegal.org**.

House, Senate Vote to Double Ethanol Fuel Requirement

Small differences to be resolved in committee

James M. Taylor

The U.S. Senate on June 5 approved by a 67-29 vote a measure to double the ethanol requirement in the nation's gasoline.

The ethanol requirement will likely become a part of the pending energy bill, but proponents vowed the measure would be enacted regardless of whether it is added to that behemoth legislation. The House passed similar ethanol legislation earlier in the year.

Under the Senate version of the bill, oil refiners will be required to increase the amount of ethanol blended with gasoline, from 2.5 billion gallons today to 5 billion gallons by 2012. The House version gives refiners until 2015 to meet the 5 billion gallons requirement.

The Senate legislation was spearheaded by Majority Leader Bill Frist (R-Tennessee) and Minority Leader Tom Daschle (D-South Dakota), and received bipartisan support. Midwestern Senators were almost unanimous in their support of the bill, while Senators from the East and West Coasts were more likely to oppose the measure.

Proponents Tout Benefits

Ethanol has been touted as a clean fuel that reduces reliance on foreign oil and creates American jobs. Ethanol opponents question the environmental benefits of the fuel and note the fuel is roughly twice as expensive as its gasoline equivalent.

"The Senate's passage of a bipartisan amendment creating a renewable fuels standard as part of the comprehensive energy bill is a win for U.S. farmers, the environment, consumers, petroleum refiners, and, most importantly, our national security," said Bob Stallman, president of the American Farm Bureau Federation.

"The renewable fuels standard will benefit national security and help lower the U.S. trade deficit by reducing the nation's dependence on foreign oil," Stallman added. "It will help create jobs in rural America through renewable fuels production and by strengthening the demand for agricultural commodities. It will help reduce auto emissions and protect air quality. It will phase out the use of methyl tertiary butyl ether, helping to protect groundwater. And it will provide flexibility to the nation's petroleum refiners in meeting the oxygenate requirement of the Clean Air Act."

Bob Dineen, president of the Renewable Fuels Association, predicted the measure will create more than 200,000 farm-related jobs.

Economists Wary of Costs

"The costs of this mandate, such as shipping ethanol outside the Midwest, will add some $8.4 billion to gas prices over each of the next five years," responded a June 5 *Wall Street Journal* house editorial. "The ethanol and corn industry will roll up about $26 billion in farm subsidies over that period. And then there's the 5.3 cents-a-gallon federal tax break for ethanol, a $122 million perk the first year alone."

"Currently the production of ethanol is subsidized by a 52 cents per gallon waiver of federal excise taxes and a tariff which blocks most imports of ethanol," reported the *Wall Street Journal*'s John Fialka.

"Gasoline has been expensive enough in recent years," added Ben Lieberman, director of clean air policy and associate counsel at the Competitive Enterprise Institute, "and the ethanol provisions can only make matters worse."

"The problem with this mandate is that it isn't clear that it will ever stop," said Robert Slaughter, president of the National Petrochemical and Refiners Association. "What's going to happen with this every year from now on is that somebody is going to put in a bill to increase the percentage."

Subsidies Par for the Course

Senate opposition to the measure came from East and West Coast legislators, who objected to the price hikes expected to result. Their opposition surprised some observers, who noted the senators are typically willing to ramp up fuel prices by restricting the recovery of oil and other natural resources.

Meanwhile, the Senate continues to debate an energy bill that will provide billions of dollars in subsidies for even more costly energy sources with dubious environmental benefits, such as wind and solar power.

James M. Taylor is managing editor of Environment & Climate News. *His email address is* **taylor@heartland.org**.

INTERNET INFO

PolicyBot offers nearly a dozen research and commentary documents on ethanol. Point your Web browser to **http://www.heartland.org**, click on *PolicyBot*, and select Agriculture/Ethanol from the topic/subtopic list.

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U.S. Set to Join Anti-Smoking Treaty

James M. Taylor

In an unexpected reversal of federal policy, Health and Human Services Secretary Tommy Thompson has pledged the U.S. will support a controversial global anti-smoking treaty.

The U.S. and Germany have been staunch opponents of the Framework Convention on Tobacco Control, the world's first international treaty on smoking. Although the two nations have smoking laws that are among the toughest in the world, each has opposed, on free speech grounds, the Framework's ban on tobacco advertising.

"I doubt the U.S. would sign onto a treaty that called for bans on racist and anti-Semitic speech."

Jacob Sullum, author
For Your Own Good: The Anti-Smoking Crusade and the Tyranny of Public Health

Twenty-eight countries and the European Union signed the treaty at a ceremony in Geneva on June 16. The signatures do not bind countries to the treaty, but are merely an expression of political support. The treaty will not go into effect unless at least 40 countries have ratified it. To date, only one country—Norway—has done so.

Surprising About-Face

In an about-face for the Americans, Thompson announced on May 18 in Geneva, "I'm going to support it—much to the surprise of many around the world."

Added Thompson, "I'm not going to make any changes. We have no reservations. The delegation here, headed by me, is in support of the tobacco treaty."

The United States did not, however, sign the treaty when it first opened for signatures on June 16. The treaty will remain open for signatures until June 29, 2004.

Thompson's abandonment of free speech principles pleased anti-smoking crusaders. "It's an astonishing departure from the obstructionist position the United States has taken throughout the negotiations," said Kathryn Mulvey, executive director of the U.S. anti-smoking alliance Infact.

Thompson's support of the treaty does not seal U.S participation, however. President George W. Bush may still decline to sign the treaty.

"The President is going to make a determination as to if and when he signs it," said Thompson. "He will be reviewing it. It [recently] got up on his personal radar screen."

Signing the treaty would send the wrong message on free speech, warns Jacob Sullum, senior editor of *Reason* magazine and author of *For Your Own Good: The Anti-Smoking Crusade and the Tyranny of Public Health*.

WHO/P. VIROT

Dr. Michael Bartolo, ambassador and permanent representative of Malta to the United Nations, was one of 28 government officials who signed an international tobacco control treaty experts say violates the tobacco industry's freedom of speech.

"I doubt the U.S. would sign onto a treaty that called for bans on racist and anti-Semitic speech," he told *Environment & Climate News*. "So what's the message if we sign the tobacco treaty? That Klansmen and Nazis are one thing, but people who sell cigarettes are truly beyond the pale?

"Freedom of speech doesn't mean much if it applies only to popular speakers saying unobjectionable things," he noted.

James M. Taylor is managing editor of Environment & Climate News. *His email address is* **taylor@heartland.org**.

Appeals Court Upholds California MTBE Ban

James M. Taylor

A federal appeals court has upheld California's ban on the controversial gasoline additive MTBE (methyl tertiary butyl ether), finding the ban does not violate the federal Clean Air Act.

The Clean Air Act mandates that oxygenated agents be blended with gasoline to reduce pollution from vehicle exhaust systems. MTBE long has been the most prevalent agent blended with gasoline to satisfy the mandate, and the Natural Resources Defense Council has been particularly adamant in its championing of MTBE.

However, recent studies have suggested MTBE is contaminating groundwater and may cause cancer in humans at high enough levels.

Although the links between MTBE and human health concerns are largely speculative, in April of this year a California jury held Shell Oil and two other energy companies liable for MTBE that made its way into Lake Tahoe. Twenty-eight other defendants in the case had earlier settled out of court for $33 million in damages.

Free-market environmentalists have not missed the opportunity to point out such groundwater pollution would not have occurred if the federal government had not mandated costly and only marginally effective gasoline additives in the first place.

"[G]roundwater pollution (from MTBE) would not have occurred if the federal government had not mandated costly and only marginally effective gasoline additives in the first place."

According to Ben Lieberman, director of clean air policy for the Competitive Enterprise Institute, "Given the downward trends in motor vehicle emissions, and expected continued declines as older cars and trucks are continually replaced by newer, cleaner ones, it is arguable that there was no need for the federal government to regulate fuel content. Nonetheless, the 1990 amendments to the Clean Air Act established detailed requirements for gasoline.

"Fortunately, the MTBE battle has broadened into a larger debate over whether oxygenates are needed at all," added Lieberman. "The best response to MTBE concerns is to entirely eliminate the oxygen content requirement" from the Clean Air Act.

The panel of the federal Ninth Circuit Court of Appeals in San Francisco rejected arguments that the California MTBE ban unlawfully circumvented the federal Clean Air Act. The court determined the ban was proper because its environmental purpose "does not conflict with the goals and purposes of the Clean Air Act."

The appellate court decision is just one of many recent blows to MTBE. After an economic boom after the Clean Air Act of 1990 virtually mandated the widespread use of MTBE, more than a dozen states have taken steps to ban the additive.

Moreover, the U.S. House and Senate each have passed bills this summer that would double the mandatory use of ethanol, a rival to MTBE. The Senate version would ban MTBE completely. A House-Senate conference committee will determine whether the MTBE ban will be incorporated into the final compromise bill.

James M. Taylor is managing editor of Environment & Climate News. *His email address is* **taylor@heartland.org**.

INTERNET INFO

PolicyBot, The Heartland Institute's free online research database, offers nearly a dozen articles about MTBE. Point your Web browser to **http://www.heartland.org**, click on the *PolicyBot* icon, and search for keyword MTBE.

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Secondhand

Continued from page 1

began analyzing the American Cancer Society data. According to their study, "No significant associations were found for current or former exposure to environmental tobacco smoke.

"The results do not support a causal relation between environmental tobacco smoke and tobacco related mortality, although they do not rule out a small effect," Enstrom and Kabat write. "The association between tobacco smoke and coronary heart disease and lung cancer may be considerably weaker than generally believed."

"Mounting evidence linking nicotine and Alzheimer's prevention may enable scientists to create a drug that can help prevent the onset of Alzheimer's."

Most Studies Reach Similar Conclusions

"Since anti-smoking activists and public health officials confidently assert annual death tolls from secondhand smoke of 50,000 or more, you may suspect that Dr. Enstrom and Dr. Kabat's findings are unusual," noted Jacob Sullum in the *Washington Times*.

"They are in fact similar to the results of most studies looking for a connection between ETS and lung cancer or heart disease. Such research typically finds small, statistically insignificant associations."

"The study's findings are consistent with those of the [Centers for Disease Control] and other epidemiological [environmental tobacco smoke] research," said Kimberly Bowman of the American Council on Science and Health.

She continued, "Ultimately, the study does not exonerate tobacco companies, but it strikes a blow at the public's misperception of the ill effects of secondhand smoke—and does so shortly after New York City Mayor Michael Bloomberg's creation of a ban on smoking in restaurants and bars, based largely on purportedly life-threatening health hazards to employees. The study suggests that the public's fears—and politicians' ideas—about how we are affected by [environmental tobacco smoke] may be misguided."

Notably, Enstrom and Kabat's work confirmed that smoking is harmful to the health of the smoker. However, the harmful health effects do not extend to persons exposed only to secondhand smoke.

"It is generally considered that exposure to environmental tobacco smoke is roughly equivalent to smoking one cigarette per day," states the study. "If so, a small increase in lung cancer is possible, but the commonly reported 30 percent increase in heart disease risk—the purported cause of almost all the deaths attributed to secondhand smoke—is highly implausible."

Nicotine May Delay Alzheimer's

A separate study, published in the online edition of the *Proceedings of the National Academy of Sciences*, has linked a nicotine byproduct with a delay in the onset of Alzheimer's disease.

Dr. Kim Janda, a professor of chemistry at the Scripps Research Institute in La Jolla, California, and his colleague Tobin Dickerson report that a byproduct of nicotine metabolism may prevent the formation of brain-clogging plaques that have been linked to Alzheimer's.

The study supports previous research that uncovered a link between smoking and a delay in the onset of Alzheimer's.

Although the results are not yet conclusive, the mounting evidence linking nicotine and Alzheimer's prevention may enable scientists to create a drug that can help prevent the onset of Alzheimer's. Currently, 4 million Americans have the disease, which is characterized by chronic disorientation and memory loss.

The article, "Glycation of the amyloid beta-protein by a nicotine metabolite: A potentially fortuitous chemical dynamic between smoking and Alzheimer's disease," appears in the 6/16/2003-6/20/2003 online edition of the journal *Proceedings of the National Academy of Sciences*. The article will appear in print later this year.

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INTERNET INFO

The James Enstrom/Geoffrey Kabat study, published in the May 17 issue of the *British Medical Journal*, is available online at **http://www.health.fgov.be/WHI3/krant/krantarch2003/kranttekstmay3/030519c03Bmj.htm**.

"Glycation of the amyloid beta-protein by a nicotine metabolite: A potentially fortuitous chemical dynamic between smoking and Alzheimer's disease," authored by Dr. Kim Janda and Tobin Dickerson and published in the 6/16/2003-6/20/2003 online edition of the journal *Proceedings of the National Academy of Sciences*, is available online at **http//www.pnas.org/cgi/doi/10.1073/pnas.1332847100**.

Congress Mulls FDA Authority over Tobacco

James M. Taylor

As President George W. Bush considered joining an international tobacco control treaty, Congress conducted hearings into the desirability of giving the Food and Drug Administration authority to regulate tobacco.

In 1993, under the Clinton administration, the FDA on its own initiative claimed authority to strictly regulate tobacco. The U.S. Supreme Court in 2000 rejected the FDA's assertion.

Since that decision, however, many cigarette makers have pushed for a Congressionally authorized FDA authority that would provide health and safety direction while granting the firms some security from trial lawyers and runaway jury verdicts.

Philip Morris, which produces roughly half of the cigarettes sold in America, supports Congressionally authorized FDA authority. "We're very hopeful that as these bills move through Congress and as there are additional hearings, it will help generate support and that the White House will lend their support at whatever time they feel is most appropriate," said Mark Berlin, legislative counsel for Philip Morris parent company Altria Group, Inc.

"Smoking is a private decision that adults can make without guidance from the nanny state…disclose the risks…Then each adult can choose whether to be smoke-free or free to smoke."

Robert Levy, senior fellow
Cato Institute

"We think there's growing support in Congress," added John Nelson, Philip Morris's president of operations and technology. Nelson predicted a "better than 50-50 chance" that Congress would grant tobacco authority to the FDA this year.

Mixed Reaction

Republicans and Democrats are equally receptive to FDA tobacco authority, but individual congressmen differ on the scope of such a power grant. Senators Edward Kennedy (D-Massachusetts) and Mike DeWine (R-Ohio) have led the push for a broad grant of power allowing very strict FDA regulation, while Representative Thomas Davis (R-Virginia) has led the push for more limited regulation.

Ironically, the anti-smoking groups that supported the FDA's 1993 power grab are opposing any congressional grant of FDA authority. "The tobacco industry has poured money into Congress, and it is clearly hoping that these hearings will serve as an impetus for political payback in the form of weak FDA regulation of tobacco products," said Matthew Myers, president of Campaign for Tobacco Free Kids. "They want a bill that will do more to promote the use of tobacco than to protect the public."

Henry I. Miller, fellow at the Hoover Institution and a former FDA official, told *Environment & Climate News* FDA regulation offers only "second-best and worse alternatives.

"A product that is unsafe and ineffective for any therapeutic use, tobacco doesn't fall within any traditional category of FDA-regulated products," Miller pointed out. "It's difficult to imagine what newly defined FDA jurisdiction would add to public health, and if it offered tobacco companies a refuge from legal liability, it would be detrimental.

"On the other hand, if the agency's authority were strictly limited to fostering research into safer cigarettes, with due care for their palatability, that might be preferable to the current situation.

"Then again," he added, "a better alternative to the FDA might be the FTC, which would simply oversee claims, not actual products."

"While it's true tobacco-related illnesses affect many people," noted Robert Levy, senior fellow in constitutional studies at the Cato Institute, "that does not make cigarettes a public health problem. Smoking is not infectious. We have not been attacked by a foreign power wielding nicotine.

"Smoking is a private decision that adults can make without guidance from the nanny state," Levy told *Environment & Climate News*. "By all means, disclose the risks and enforce the laws against sales to kids. Then each adult can choose whether to be smoke-free or free to smoke."

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Fuels Treatment Is Not Sound Forest Management

Randal O'Toole

Professional foresters have a tendency to think every forest needs their tender loving care. Even young foresters who want to save old growth often agree many second-growth forests are overstocked and need thinning.

Given complete discretion—and unlimited funding—foresters would gladly turn the national forests into the sort found in Germany, where every stick of wood is removed almost as soon as it hits the ground.

Increasing the Forest Service's budget in the name of "fuels treatment" will benefit the bureaucracy ... but little more. Increasing fuels treatment funding will not improve how the country's national forests are managed, but rather will encourage national forest managers all across the country to invest precious creativity in figuring out how to describe their pet projects in ways that will qualify them for fuels treatment funds.

"Increasing fuels treatment funding will not improve how the country's national forests are managed, but rather will encourage national forest managers all across the country to invest precious creativity in figuring out how to describe their pet projects in ways that will qualify them for fuels treatment funds."

Timber Sales

Fuels treatment is not likely to result in increased timber sales, as many Bush administration officials hope.

Liberal environmentalists, of course, will fight timber sale proposals tooth and nail. Moreover, few buyers for national forest timber remain; most have gone out of business or found other, more reliable sources of wood.

The biggest obstacle to more timber sales, however, is Forest Service employees themselves. Employees hired in the past three decades are mostly urbanites of the "Earth Day" generation who became foresters to save the forests, not manage them for sustainable yields.

Modern Forestry Culture

Transferring money and power from the National Forest Service to the Fire Service is not a good thing. National Forest Service officials claim decades of fire suppression have created fire hazards in the forest. One solution, they say, is to let more fires burn. But the Fire Service is so oriented to suppression that it puts out 99 percent of all fires. According to the National Interagency Fire Center, between January 1 and July 9, 2003 more than 1,600 fires have been reported on national forests. The Fire Service has suppressed all but 16 of them.

The real problem with fire is that an urban culture combined with decades of Smokey-the-Bear indoctrination have led to the widespread belief that fire is bad for the forest. In fact, fire can be good for wildlife and plant communities, does little harm to recreation (and can even improve scenic views, as I discovered on a recent visit to Yellowstone), and in most places does little harm to soils or watersheds.

Randal O'Toole is a senior economist with the Thoreau Institute. His email address is **rot@ti.org**.

GLOBAL SATELLITE TEMPERATURES

EARTH TRACK

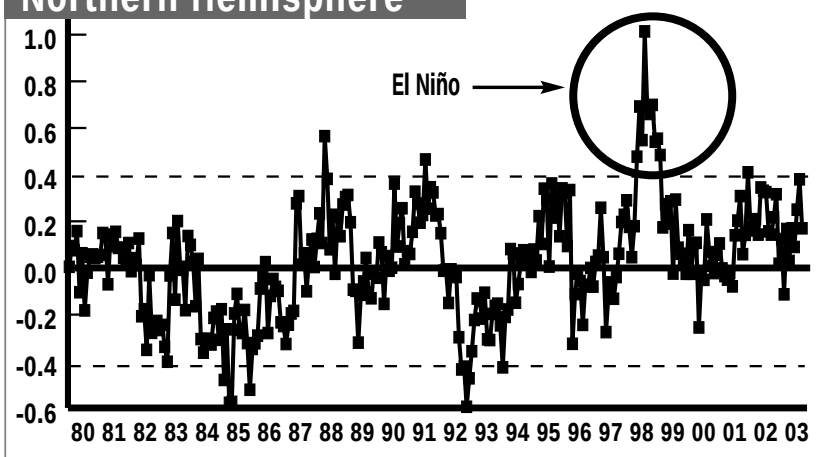
Each month, Earth Track updates the global averaged satellite measurements of the Earth's temperature. These numbers are important because they are real—not projections, forecasts, or guesses.

Global satellite measurements are made from a series of orbiting platforms that sense the average temperature in various atmospheric layers. Here, we present the lowest level, which climate models say should be warming. The satellite measurements are considered accurate to within 0.01°C.

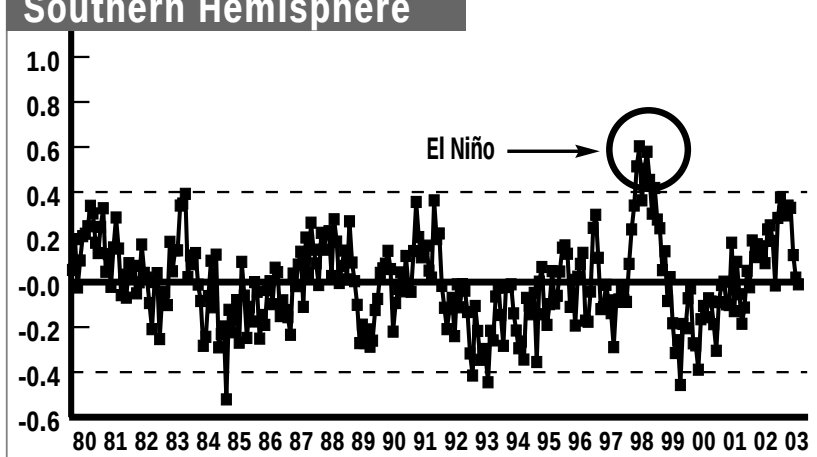
JUNE 2003

The global average temperature for June, shown on page 1, was 0.01°C below normal. The Southern Hemisphere's temperature departure, shown below, was 0.19°C below normal; the Northern Hemisphere's, also below, was 0.17°C above normal.

Northern Hemisphere



Southern Hemisphere



The data used to create these graphs can be found on the Internet at http://vortex.nsstc.uah.edu/data/msu/t2lt/tltglhmam_5.1.

Let us know what you think!

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Forest Service Budget Pits Forest Management against Fire Suppression

Randal O'Toole

Ask any district ranger, or any on-the-ground Forest Service employee, and they will tell you the national forests are suffering from a severe budget crunch. Yet the Forest Service's total budget increased from $3.2 billion in 1991 to $5.3 billion in 2001. Where has all that money gone?

Inflation has halved the value of a dollar since 1980, and it continues at roughly 2 percent per year. But even after adjusting for inflation, the Forest Service's 2001 budget was its highest in history. Budgets since then, though slightly smaller, are still larger than any prior year.

The budget increases disguise a massive shift of money—and power—from national forest managers to fire managers. As shown in the table, funding for the four key budget items for on-the-ground forest management—National Forest System, Construction, Permanent Funds, and Trust Funds—has collectively fallen by nearly a third. The Fire management line item, meanwhile, has increased by more than 250 percent.

Admittedly, some of the fire money will be spent for on-the-ground fuel reduction programs—but this amount is small. In 2002, only $209 million went for fuel reduction, while $1.2 billion went for presuppression, suppression, and rehabilitation of burned areas. Most of the rest went to research or assistance to other agencies (presumably managed by State & Private Forestry).

Forest Managers vs. Fire Suppression Teams

The Thoreau Institute's 2002 analysis, *Reforming the Fire Service*, notes there is some tension between national forest managers and the people who lead fire suppression teams. "On one hand, land managers can ignore the effects of their actions on future fire problems because the fires will be taken care of by the fire-fighting program. On the other hand, the fire commanders may decide to use short-term fire fighting strategies that create or exacerbate long-term management problems."

In a sense, the U.S. now has two different Forest Services. The National Forest Service focuses on managing the land, while the Fire Service focuses on suppressing fires. In the last few years, the second Forest Service has gained at the expense of the first.

When the budgets of the two are summed, they have remained relatively constant over the past two decades. After adjusting for inflation, the 2002 budget of the two was just 3.6 percent more than the 1980 budget. But the Fire Service budget has ballooned by more than $1.1 billion, while the National Forest Service budget has shrunk by $1.0 billion.

The shift from a National Forest Service to a Fire Service may become even worse with the 2004 budget. President George W. Bush proposed to increase the Fire Service budget by more than $170 million, while keeping the National Forest Service budget about the same. But lawmakers eager to please rural constituents have boosted the Fire Service budget by another $900 million. The fire budget is already larger than the National Forest System budget; the 2004 budget increase would make it larger than the National Forest System, Construction, Permanent Funds, and Trust Funds combined.

A Changing Culture

The funding shift may not be sustainable. The drought that has enveloped the U.S. since 1999 seems to be tapering off. Although the situation in the Rocky Mountains region is still serious enough to lead to a few exciting fires, if the next few years are wetter, Congress will soon lose interest in fire funding.

Yet the change from a National Forest Service to a Fire Service is likely to inflict some permanent changes in the Forest Service culture. While it is too early to tell what the long term will bring, the short term offers some disturbing clues:

- The Forest Service is learning (or relearning) that it can get more from Congress by milking disasters than by practicing good management.
- It is learning to focus on expensive—and largely pointless—fuel treatment programs, because they are the best pork it has to offer Congress.
- It has few incentives to take the right steps to protect structures in the wildland-urban interface. Every time a house burns down, the Service gets a bigger budget.
- It continues to put firefighters in danger because of the myth that fires can do more damage to forests than to human beings.
- It continues to neglect what are probably the most valuable national forest resources—recreation, wildlife, fish, and watersheds—because those won't do much to increase the budget, thanks partly to a few recreationists who self-destructively oppose increased recreation user fees.

The Bush administration, unfortunately, appears to be under the influence of people who hope to turn fuel treatments into timber sales. Congress, meanwhile, is still trying to solve the fire problem by dumping money on it. Neither approach will lead to sound public land management.

John McColgan US Forest Service

Change in Funding from 1980 to 2002
(after adjusting for inflation)

Research	24%
State & Private Forestry	102%
Fire	253%
National Forest System[1]	-37%
Construction[2]	10%
Permanent Funds[3]	-31%
Trust Funds[4]	-60%
Total National Forest Management[5]	-32%
Land Acquisition	197%
Payments to States	-30%
Total Forest Service	17%

1 National Forest System includes operating funds for timber, wildlife, recreation, and other national forest and grassland resources.
2 Permanent funds include such things as brush disposal and timber salvage sale funds.
3 Trust funds include such things as Knutson-Vandenberg, road maintenance, and reforestation.
4 Construction was recently changed to include facilities maintenance, so part of the increase (and part of the National Forest System decrease) represents a transfer of funds. Construction also includes construction for research, state & private forestry, and fire, but most is for national forests.
5 For the purposes of this story, Total National Forest Management funding is approximately the sum of National Forest System, Construction, Permanent Funds, and Trust Funds.

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INTERNET INFO

The Thoreau Institute's 53-page report, *Reforming the Fire Service*, is available through PolicyBot. Point your Web browser to **http://www.heartland.org**, click on the *PolicyBot* icon, and search for document **#12525**.

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PCB Lawsuit Threatens Pennsylvania Business Climate

Manufacturer held responsible for cost of replacing run-down building after fire releases trace amounts of PCBs

James M. Taylor

What critics have called a "bizarre" jury verdict, holding a chemical manufacturer responsible for the costs of rebuilding a state-owned building after a fire, is being appealed to the Pennsylvania supreme court.

The Pennsylvania Chamber of Business and Industry, joined by several other in-state and national business organizations, has filed a friend-of-the-court brief urging it to overrule the verdict.

Fire Exposed Trace PCBs

In 1994, a dilapidated building out of compliance with the local fire safety code caught fire. The building was owned by the Pennsylvania Department of Transportation. After the fire, trace levels of PCBs, allegedly manufactured by Monsanto, were recorded in the building.

The PCB levels were well within health standards issued by the U.S. Environmental Protection Agency and U.S. Occupational Health and Safety Administration. The Secretary of the Pennsylvania Department of Transportation declared the building safe for occupancy after the fire and allowed it to be used for years before later calling it unsafe.

After declaring the building unsafe, the Department of Transportation spent $225 million demolishing the old building, constructing and furnishing a new building, and paying employee relocation costs. Although experts testified the trace PCBs in the old building could have been cleaned up for less than $500,000, a jury ordered Solutia, a specialty chemical manufacturer spun off by Monsanto in 1997, to foot $90 million of the Department of Transportation's overall bill. A judge later reduced Solutia's liability to $45 million.

Fire a Foreseeable Use for PCBs?

"The decision to hold Solutia liable, and Commonwealth Court's denial of Solutia's appeal, represents an unprecedented extension of current 'strict' liability laws into an 'absolute' liability regime," said the Pennsylvania Chamber of Business and Industry in a press release. "In short, the court ruled that fire was an intended use of the PCBs, which means manufacturers must be ready to insure the safety of their products in any conceivable situation."

In its brief, the Chamber argued that the verdict places manufacturers in the dubious position of facing liability for the capacity of their products to create risk, which the Chamber asserts is counter to past court rulings. Prior rulings have stated that while manufacturers are guarantors of their product's safety from defects, they are not insurers of all injuries caused by the products.

Economic Consequences

"Absolute liability," the brief pointed out, "would produce severe economic consequences for a wide range of business entities and their customers, from increased insurance costs to stifled innovation to actual disincentives for improved safety efforts."

The National Association of Manufacturers (NAM) joined the Chamber in its brief. "Product liability law is supposed to reasonably compensate injured parties and provide an incentive for responsible parties to change their behavior," said NAM General Counsel Jan Amundson. "If excessive claims like this one become the norm, defendant companies will be left without resources to improve their behavior and product lines, and they'll be unable to develop new, desired goods and services. In short, their economic output will be drastically reduced.

"Pennsylvania is already among the most costly states to do business in," added Amundson. "If the lower court is upheld, new businesses will be much less inclined to locate there."

"Pennsylvania already is at a competitive disadvantage in regard to its economic policies affecting business growth and development, a disadvantage that extends to the legal system as well," agreed the Pennsylvania Chamber, in explaining why it is opposing its own state government in the suit. "Commonwealth Court's decision will only add to this burden, which is why the Chamber supports Solutia Inc. in its appeal and urges the state Supreme Court to reverse the lower court's decision."

PCB Levels Were Safe After Fire

"The trial court didn't seem at all bothered by the fact that PCB levels at the T&S site were well below levels that health authorities would consider potentially harmful," Amundson observed. "And it completely ignored undisputed testimony that even an old shoe can give off potentially harmful fumes if it's incinerated, thus eschewing altogether the concept of risk-benefit analysis. Also ignored by the lower court was considerable case law that would have required the defendant to pay only for repair, not total replacement of the building.

"If permitted to stand, the trial ruling would make any manufacturer or product distributor in Pennsylvania absolutely liable simply because—under extreme conditions—its product could expose people to potential safety risks. If anyone in Pennsylvania thinks that such an approach to product liability law will help grow their economy and create jobs, they clearly have no understanding of business and economics," concluded Amundson.

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Alabama Jury Breaking the Bank in Suspect PCB Case

James M. Taylor

An Alabama jury has awarded $73 million in property damage and emotional distress awards to 380 people who have detected PCBs on their property. Significantly, most of the money has been tied to cleanup-cost claims ... even though the defendant company has already agreed to clean up the PCBs at its own expense, and even though the asserted cleanup costs far exceed the cumulative value of the affected properties.

The jury has yet to determine damage awards for thousands more plaintiffs in the same case.

From 1935 through the early 1970s, Monsanto manufactured PCBs at a 70-acre Alabama site to insulate electrical equipment. The federal government banned PCBs in 1979 after some studies indicated that at high levels, PCBs can cause cancer in laboratory animals.

Since the ban, local property owners have tested their property for PCBs, and affected property owners filed a class-action lawsuit against Solutia, a specialty chemical company that was spun off by Monsanto in 1997 but inherited the parent company's liability for PCB claims.

Windfall Awards

Although PCBs were considered safe at the time of their manufacture, and are still considered safe at low exposure levels, local property owners who can document trace levels of PCBs on their property are reaping a financial bonanza.

Aubrey Lee Tidwell was awarded $345,000 in cleanup costs for his home—which is valued at less than $20,000. Nothing prevents Mr. Tidwell from simply selling the home and pocketing a $345,000 windfall.

William Rozier and his wife detected PCBs in the yard of their modest homesite and presented evidence of trace PCB levels in their blood. A jury awarded them more than $450,000.

The awards are being made even though Solutia has already spent more than $50 million cleaning up PCBs and has entered into a consent decree with the Environmental Protection Agency to clean up all other PCB-affected sites the agency designates.

Why are local jurors awarding local plaintiffs tens, and soon to be hundreds, of millions of dollars ostensibly to clean up sites the company has already committed to cleaning up at its own expense, ask Solutia spokespeople. And why are plaintiffs receiving property damage awards that are often 20 times or more what their property is worth?

Solutia stock was valued at $14.36 a month before the trial began, but is now trading at just $1.70.

Solutia vows it will appeal the verdict and the awards once the case concludes.

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Study Finds No Health Risks for Above-Average Mercury Levels

James M. Taylor

A comprehensive study of 643 children, tracked from the womb to 9 years of age, has found no health risks resulting from exposure to above-average levels of mercury in their diets. The study calls into question ongoing state and federal efforts to further regulate mercury emissions, which have already sharply declined in recent years.

Scientists at the University of Rochester Medical Center have been tracking hundreds of children in the Republic of Seychelles, an island nation in the Pacific Ocean. Due to its geography, Seychelles citizens tend to eat large amounts of fish, the primary source of human mercury exposure. As a result of their fish intake, Seychelles citizens have an average of six times more mercury in their bodies than do American citizens.

The Rochester Medical Center study found no detectable harms to health among Seychelles children exposed to heightened mercury levels in the womb, and exposed to heightened mercury levels throughout their childhood.

"We've found no evidence that the low levels of mercury in seafood are harmful. In the Seychelles, where the women in our study ate large quantities of fish each week while they were pregnant, the children are healthy,"said Gene Myers, senior author of the study and an internationally recognized authority on mercury. "These are the same fish that end up on the dinner table in the United States and around the world."

The Rochester team conducted a battery of more than 20 tests on the children in the study. Even those children who had far higher mercury blood levels than the Seychelles average showed no adverse effects.

As mercury settles in oceans and freshwater sources, fish take on heightened mercury levels that get passed up the food chain to humans who consume the fish.

Natures Produces Most Mercury

More than half the mercury in the Earth and its environment comes from natural sources. Man-made sources, primarily power plants, produce the remainder of environmental mercury. U.S. power plants account for only 1 percent of global environmental mercury, according to the Center for Science and Public Policy.

Mercury emissions from U.S. power plants declined throughout the 1990s as a result of environmental regulations and advances in technology. The Environmental Protection Agency's Clear Skies Act aims to cut mercury emissions another 69 percent by 2018. Nevertheless, liberal environmentalists are seeking restrictive and costly additional curbs on U.S. mercury emissions.

According to Harvard-Smithsonian physicist Dr. Willie Soon, "recent findings by the Centers for Disease Control show that the level of mercury found in humans is far below the threshold of health risk, even for sensitive populations."

Moreover, says Soon, "emerging research indicates that ... new [mercury] controls on U.S. coal will mean higher energy prices, more dependence on imported natural gas, and lost jobs—all to address a public harm that has not been found."

Mercury levels can be reduced more efficiently and economically by targeting natural mercury sources. For example, forest fires release far more mercury than U.S. power plants. Says Soon, "a more effective mercury controlling policy would be to reduce vegetation burning in the U.S. by promoting better forestry management and stewardship and by encouraging similar efforts throughout the globe."

Concluded Soon, "placing heavier regulatory burdens on already-clean U.S. power plants that will drive up energy prices makes little economic sense. In the face of more realistic and efficient alternatives, it makes little moral or environmental sense as well."

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INTERNET INFO

A two-page article, "Is the EPA Ignoring the Science on Mercury," written by Willie Soon and Bob Ferguson for the Frontiers of Freedom Institute, is available through *PolicyBot*. Point your Web browser to **http://www.heartland.org**, click on the *PolicyBot* icon, and search for document **#12527**.

Dioxin

Continued from page 1

animals and people. Dioxins are never deliberately manufactured, but appear as an unwanted byproduct of some manufacturing processes, forest fires, and waste incineration.

Dioxins build up in the body fat of livestock that eat feed or grass that has been exposed to dioxins, and are in turn passed on to people who eat animal fat. Although no evidence has ever linked common dioxin exposure levels to human health problems, some tests have indicated extremely high doses of dioxin, like extremely high doses of many other natural and synthetic chemicals, can cause health problems in some laboratory animals.

Dioxin was a preferred target for radical environmentalists in the 1980s and 1990s, after potentially toxic chemicals, including dioxin, were discovered in the Love Canal neighborhood of Niagra Falls, New York and in Times Beach, Missouri. Ralph Nader, the Sierra Club, and other liberal environmentalists called for a "zero tolerance" approach to dioxin—although no scientific research had established the emissions posed any danger to human health.

No New Regs Needed

The NAS study notes environmental dioxin levels have declined by as much as 76 percent since the 1970s, when environmental concerns caused a steep decline in dioxin emissions. Most experts expect environmental dioxin levels to continue to decline, as the compounds gradually slip out of the food chain.

Stated the NAS report, "the health risks posed by the levels of dioxins in foods have yet to be ascertained, so the report does not recommend regulatory limits on dioxins or dioxin-like compounds in food or feed."

"Because the risks posed by the amount of dioxins found in foods have yet to be determined, we are recommending simple, prudent steps to further reduce dioxin exposure while data are gathered that will clarify the risks," said Robert Lawrence, a Johns Hopkins University associate dean and chair of the committee that wrote the NAS report.

The most effective means of limiting dioxin exposure, according to the NAS, is to eat a balanced diet consistent with current dietary recommendations. Excessive consumption of dietary fats is detrimental to human health for a variety of reasons, notes the report, and heightened dioxin levels may fit the same pattern.

Some specific strategies were proposed. "To reduce dioxin exposure in all children—especially girls—government-sponsored food programs, such as the National School Lunch Program, should increase the availability of foods low in animal fat. For example, low-fat milk should be made more widely available in the school lunch program. Also, the U.S. Department of Agriculture should analyze the impact of setting limits on the amount of saturated fat that can be present in meals served in the school breakfast and lunch programs. Except for children under Age 2, participants in the Special Supplemental Food Program for Women, Infants, and Children should be encouraged to choose low-fat milk and foods."

Additionally, the NAS urged government to reduce dioxin levels in animal feed. "Federal agencies should work with food producers to develop voluntary guidelines for animal feeding and food-production practices that would minimize animals' exposure to dioxins."

Frustration with EPA

The NAS report originated with a long-delayed EPA assessment that pro-regulation groups had hoped would empower the agency to tighten existing regulations and implement a host of new environmental cleanup mandates. Even though dioxin levels are only a quarter of what they were three decades ago, a comprehensive cleanup program would be costly.

In April 2003, as the EPA assessment began nearing completion, the U.S. Department of Agriculture (USDA), the Food and Drug Administration, and the Department of Health and Human Services raised concerns about how EPA extrapolates data to make children seem more susceptible to environmental chemicals than is actually the case. Moreover, according to Monica Rohde Buckhorn of the Center for Health, Environment and Justice, "USDA officials [were] also uneasy about EPA's characterization of dioxin as a 'known' human carcinogen" despite a lack of supporting scientific data.

After those sound science concerns were raised, the EPA assessment was handed off to the NAS to ensure a more objective final report.

James M. Taylor is managing editor of Environment & Climate News. *His email address is* **taylor@heartland.org**.

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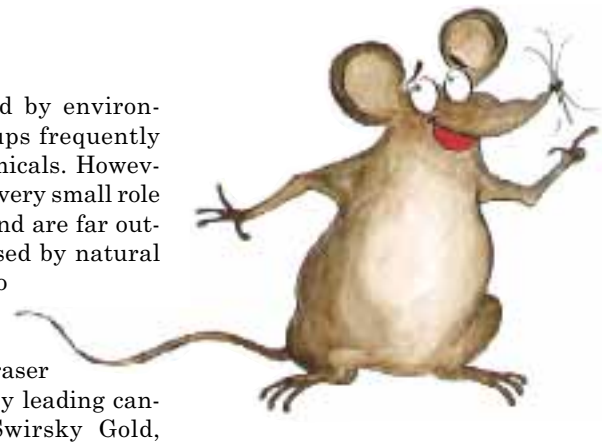
Animal Tests Overstate Cancer Fears

Part 3 of 3



Cancer scares created by environmental activist groups frequently focus on man-made chemicals. However, such chemicals play a very small role in human cancer rates and are far outweighed by the risks posed by natural chemicals, according to *Misconceptions about the Causes of Cancer*, a book published by the Fraser Institute and authored by leading cancer researchers Lois Swirsky Gold, Thomas H. Slone, Neela B. Manley, and Bruce N. Ames.

In this, the last of three articles culled from the new book, the authors explain why animal cancer tests tend to overstate human cancer fears, especially with respect to man-made chemicals.

Comparative Index

"An analysis of synthetic chemicals against the vast array of natural chemicals shows that synthetic rodent carcinogens are a tiny fraction of the total. A comparison of potential hazards using a simple index can be helpful in efforts to communicate what might be important factors in cancer prevention. There is a need to identify what might be the important cancer hazards among the ubiquitous exposures to rodent carcinogens in everyday life." (page 43)

"One reasonable strategy for setting priorities is to use a rough index to compare and rank possible carcinogenic hazards from a wide variety of chemical exposures at levels that humans typically receive and then to focus on those that rank highest. Ranking is thus a crucial first step. Our analyses are based on the Human Exposure/Rodent Potency Index (HERP), which indicates what percentage of the rodent carcinogenic potency a person receives from a given average daily dose when exposed over a lifetime." (page 43)

Synthetic Chemicals Rank Low

"Overall, our HERP ranking has shown that synthetic pesticide residues rank low in possible carcinogenic hazard compared to many common exposures. HERP values for some historically high exposures in the workplace and some pharmaceuticals rank high, and there is an enormous background of naturally occurring rodent carcinogens in average consumption of common foods. This background of natural chemical results casts doubt on the relative importance of low-dose exposures to residues of synthetic chemicals such as pesticides. A committee of the National Research Council recently reached similar conclusions when they compared natural and synthetic chemicals in the diet and called for further research on natural chemicals." (page 44)

"The ranking of possible hazards (HERP values in %) is for average exposures in the United States to all rodent carcinogens in the Carcinogenic Potency Database (CPDB), a widely used resource on the standardized results of chronic, long-term animal cancer tests. For pharmaceuticals, the doses are recommended doses, and for exposure in the workplace they are past averages for an industry or a high-exposure occupation. The 94 exposures in the ranking are ordered by possible carcinogenic hazard (HERP) and natural chemicals in the diet are reported in boldface. The median HERP value is 0.002% and the background HERP for the average chloroform level in a liter of United States tap water is 0.0008%. Chloroform is formed as a by-product of water chlorination and the HERP value reflects exposure to chloroform from both drinking water and breathing indoor air, for example, when showering. A HERP of 0.00001% is approximately equal to a regulatory risk level of 1-in-a-million based on a linear model, i.e. the Virtually Safe Dose (VSD)." (page 45)

"The rankings indicate that, if the same methodology were used for both naturally occurring and synthetic chemicals, most ordinary foods would not pass the default regulatory criteria that have been used for synthetic chemicals. For many natural chemicals, the HERP values are in the top half of the table, even though natural chemicals are markedly under-represented because so few have been tested in rodent bioassays. The ranking of HERP values maximizes possible hazards from synthetic chemicals because it includes historically high exposure values that are now much lower, for example, exposure to DDT and saccharin as well as to occupational chemicals." (page 45)

INTERNET INFO

The full text of *Misconceptions About the Causes of Cancer* is available in Adobe Acrobat's PDF format on the Fraser Institute's Web site at **http://www.fraserinstitute.ca/shared/readmore.asp?sNav=pb&id=477**. The book can also be ordered from the Fraser Institute for $19.95 (CAN) plus $10.00 shipping and handling. Call 604/688-0221 or email your order to **sales@fraserinstitute.ca**.

Ranking Possible Carcinogenic Hazards

(Chemicals that occur naturally are in **bold**)

HERP (%)	*Average Daily US human exposure*	*Rodent carcinogen*
140	EDB; production workers (before 1977)	Ethylene dibromide
17	Clofibrate	Clofibrate
12	Phenobarbital, 1 sleeping pill	Phenobarbital
6.9	Gemfibrozil	Gemfibrozil
6.8	Styrene-butadiene rubber industry workers (1978-86)	Butadiene
6.2	**Comfrey-pepsin tablets, 9 daily (no longer recommended)**	**Comfrey root**
6.1	Tetrachloroethylene; dry cleaners with dry-to-dry units (1980-90)	Tetrachloroethylene
4.0	Formaldehyde: production workers (1979)	Formaldehyde
3.6	**Alcoholic beverages, all types**	**Ethyl alcohol**
2.4	Acrylonitrile: production workers (1979)	Acrylonitrile
2.2	Trichloroethylene: vapor degreasing (before 1977)	Trichloroethylene
1.8	**Beer, 229 g**	**Ethyl alcohol**
1.4	Mobile home air (14 hours/day)	Formaldehyde
1.3	**Comfrey-pepsin tablets, 9 daily (no longer recommended)**	**Symphytine**
0.9	Methylene chloride: workers, industry average (1940s-80s)	Methylene chloride
0.6	**Wine, 20.8 g**	**Ethyl alcohol**
0.5	Dehydroepieandrosterone (DHEA)	DHEA supplement
0.4	Conventional home air (14 hours/day)	Formaldehyde
0.2	Fluvastatin	Fluvastatin
0.1	**Limonene in food**	**Limonene**
0.1	**Coffee**	**Caffeic acid**
0.06	Lovastatin	Lovastatin
0.04	**Lettuce, 14.9 g**	**Caffeic acid**
0.03	**Safrole in spices**	**Safrole**
0.03	**Orange juice**	**Limonene**
0.03	**Comfrey herb tea, 1 cup (1.5 g root) (no longer recommended)**	**Sympnytine**
0.03	**Tomato, 88.7g**	**Caffeic acid**
0.03	**Furfural in food**	**Furfural**
0.02	**Coffee, 11.6 g**	**Catechol**
0.02	**Mushroom (*Agaricus bisporus* 2.55 g)**	**Mixture of hydrazines, etc.**
0.02	**Apple, 32.0 g**	**Caffeic acid**
0.01	BHA: daily US avg (1975)	BHA
0.01	**Beer (before 1979), 229 g**	**Dimethylnitrosamine**
0.008	**Aflaoxin: daily US avg (1984-1989)**	**Aflatoxin**
0.007	**Celery, 14 g**	**Caffeic acid**
0.007	Limonene	Food additive
0.007	**Cinnamon, 21.9 mg**	**Coumarin**
0.006	**Coffee, 11.6 g**	**Furfural**
0.005	**Coffee, 11.6 g**	**Hydroquinone**
0.005	Saccharin: daily US avg (1977)	Saccharin
0.005	**Carrot, 12.1 g**	**Aniline**
0.004	**Bread, 79 g**	**Furfural**
0.004	**Potato, 54.9 g**	**Caffeic acid**
0.004	**Methyl eugenol in food**	**Methyl eugenol**
0.003	Conventional home air (14 hour/day)	Benzene
0.002	**Coffee, 11.6 g**	**Methylcatechol**
0.002	**Nutmeg, 17.6 mg**	**Limonene**
0.002	**Carrot, 12.1 g**	**Caffeic acid**
0.002	Ethylene thiourea: daily US avg (1990)	Ethylene thiourea
0.002	BHA: daily US avg (1987)	BHA
0.002	DDT: dialy US avg (before 1972 ban)	DDT
0.001	**Estragole in spices**	**Estragole**
0.001	**Pear, 3.7 g**	**Caffeic acid**
0.001	Toxaphene: daily US avg (before 1982 ban)	Toxaphene
0.001	**Mushroom (Agaricus bisporus 5.34 g)**	**Glutamyl-hydrazino-benzoate**
0.001	**Plum, 1.7 g**	**Caffeic acid**
0.001	[UDMH: dialy US avg (1988)]	[UDMH (from alar)]
0.001	**Bacon, 19 g**	**Diethylnitrosamine**
0.0008	**Bacon, 19 g**	**Dimethylnitrosamine**
0.0008	Tap water, 1 liter (1987-92)	Chloroform
0.0008	DDE: daily US avg (before 1972 ban)	DDE
0.0007	**Bacon, 19 g**	**Nitrosopyrrolidine**
0.0006	Methyl eugenol	Food additive
0.0004	EDB: Daily US avg (before 1984 ban)	EDB
0.0004	Tap water, 1 liter (1987-92)	Bromodichloromethane
0.0004	**Celery, 14 g**	**Methoxypsoralen**
0.0003	**Mango, 1.0 g**	**Limonene**
0.0003	TCDD: daily US avg (1994)	TCDD
0.0003	Furfural	Food additive
0.0003	Carbaryl: daily US avg (1990)	Carbaryl
0.0003	**Mustard, 18.9 mg**	**Allyl isothiocyanate**
0.0002	**Beer (1994-95), 229 g**	**Dimethylnitrosamine**
0.0002	**Mushroom (*Agaricus bisporus*, 5.34 g)**	**Hydrazinobenzoate**
0.0002	Estragole	Food additive
0.0002	Allyl isothiocyanate	Food additive
0.0002	**Hamburger, pan fried, 85 g**	**PhIP**
0.0001	Toxaphene: daily US avg (1990)	Toxaphene
0.00008	PCBs: daily US avg (1984-86)	PCBs
0.00008	**Toast, 79 g**	**Urethane**
0.00008	DDE/DDT: daily US avg (1990)	DDE
0.00007	**Beer, 229 g**	**Furfural**
0.00006	**Parsnip, 48.8 mg**	**Methoxypsoralen**
0.00004	**Parsley, fresh, 257 mg**	**Methoxypsoralen**
0.00003	**Hamburger, pan fried, 85 g**	**MeIQx**
0.00002	Dicofol: US avg (1990)	Dicofol
0.00001	**Hamburger, pan fried, 85 g**	**IQ**
0.000009	**Beer, 229 g**	**Urethane**
0.000005	Hexachlorobenzene: daily US avg (1990)	Hexachlorobenzene
0.000001	Lindane: daily US avg (1990)	Lindane
0.0000004	PCNB: daily US avg (1990)	PCNB
0.0000001	Chlorobenzilate: daily US avg (1989)	Chlorobenzilate
0.00000008	Captan: daily US avg (1990)	Captan
0.00000001	Folpet: daily US avg (1990)	Folpet
<0.00000001	Chlorothanlonil: daily US avg (1990)	Chlorothalonil

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Montana Bans Land Sales to Federal Government

Law's author cites abuse of federal authority

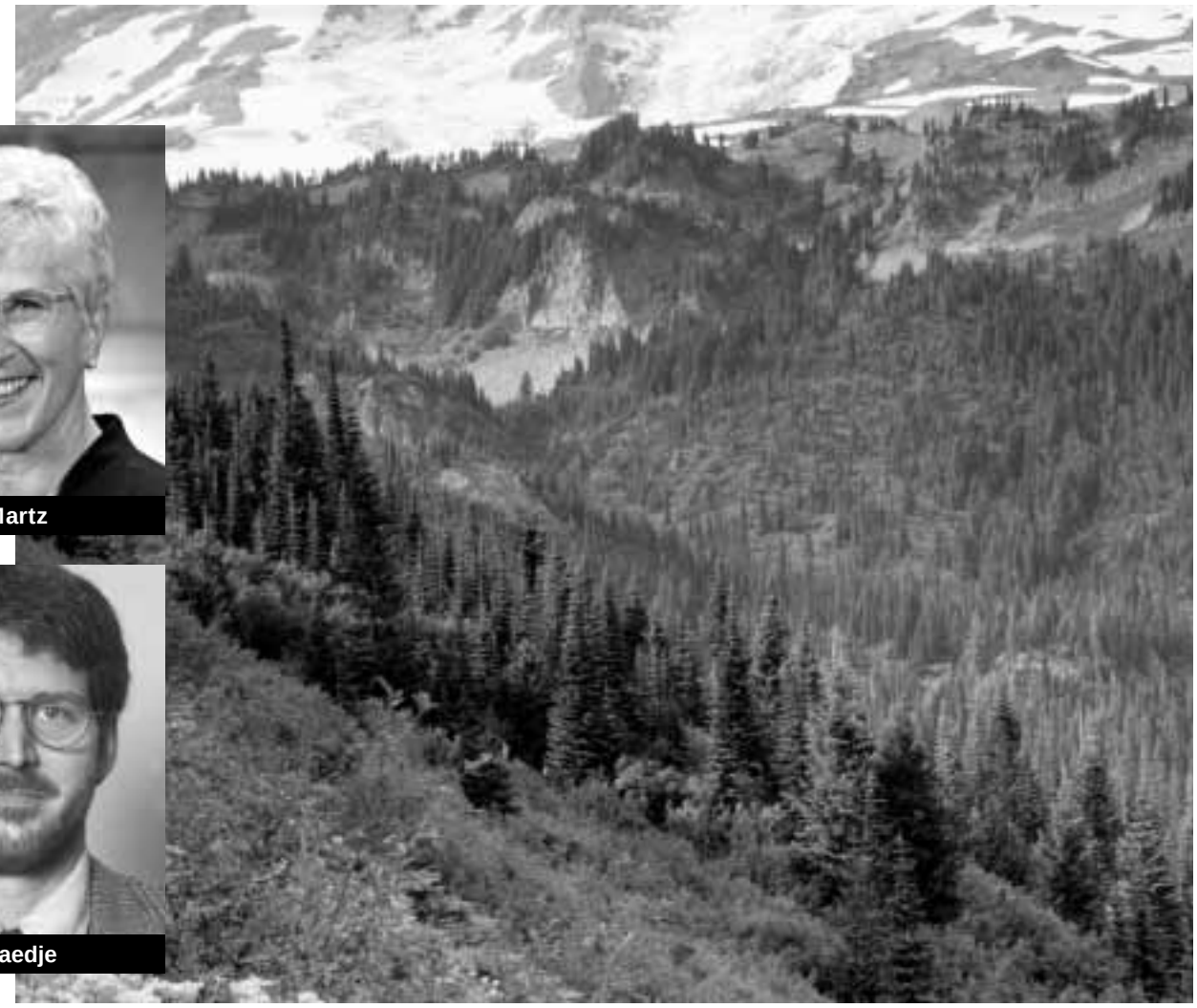
James M. Taylor

In protest of the federal government's over-reaching and its mismanagement of public lands, Montana has become the first state in the union to prohibit the sale of state lands to the federal government.

An amendment to House Bill 223, authored by Rep. Rick Maedje (R-Fortine) and signed into law by Republican Governor Judy Martz, directs that "State land may not be sold to the federal government or to any agency of the federal government, except for the purpose of building federal facilities and structures." The exception for federal structures comports with Article I, Section 8 of the U.S. Constitution, which authorizes the federal government to purchase land, with the consent of the home state's legislature, for the erection of necessary federal buildings.

Gov. Judy Martz

Rep. Rick Maedje



"This is an accomplishment I am very, very proud of," said Maedje. "I am not prepared in any way, shape, or form to see a single acre of state land wind up in the federal government's hands. Not only does the federal government fail to pay taxes on land it holds, but even the PILT payments (Payments in Lieu of Taxes) it promises us never come through.

"Worse yet," he continued, "Montana has had nothing but serious problems in the last 30 years with virtually every acre the federal government claims to have jurisdiction over in this state. Selling the feds our state land is like rubbing salt in a wound."

HB 223 authorizes the state land board to sell lands held in trust by the state for the purpose of raising income for public schools. The bill authorizes sale only of lands that are not producing income. The bill further gives the land board discretion to purchase other lands in the place of unproductive property.

"I don't disagree with the underlying purpose of the bill at all," said Maedje. "It's entirely appropriate for the State Land Board to look for better timber, mining, and grazing lands for the schools. But there was a serious unintended consequence—the present state lands could wind up in the hands of the federal government, and that is entirely inappropriate in Montana.

"House Bill 223 came through the Natural Resources Committee, and I saw the real opportunity to add a friendly amendment to the bill to begin to stop federal land acquisitions in our state," said Maedje.

Rep. Chris Harris (D-Bozeman) lambasted the amendment on the House floor, arguing that "Iraq could buy this land. North Korea could buy this land, but our own red, white, and blue federal government can't buy this land. This is wrong."

Responded Maedje, "The Constitution never intended the federal government to increase its land holdings or jurisdictional influence without the consent of the people of a state. Regrettably, over the last 30 years the federal government has overstepped its authority, and its abuse of that authority directly conflicts with the economic vitality, character, and traditions of the people of Montana.

"Montanans have been patient," Maedje said. We have tried to work with federal agencies, but we have intelligently arrived at the conclusion that federal agencies have little or no incentive to abide by the federal Constitution.. So, we're now going to help them get back on track.

"This amendment to HB 223 is the first step in a calculated effort not only to put the brakes on federal land acquisitions, but in future legislative sessions, we will take intelligent, lawful steps such as this to roll back federal land holdings and jurisdictional authority," Maedje said. "Montana is the first state in the nation to prohibit the federal government from purchasing state lands. This is an historic step for any state to take, and federal agencies should be well aware that Montana will continue to assert our rights as a state, and we take this issue very, very seriously."

James M. Taylor is managing editor of Environment & Climate News. *His email address is* **taylor@heartland.org**.

Wisconsin Legislature Rejects Land Purchases

State won't spend stewardship funds set aside for buying up private land

James M. Taylor

The Wisconsin legislature's Joint Finance Committee has voted overwhelmingly to ignore the availability of state stewardship funds and forego buying private lands. The 12-4 decision marks the first time the state has refused to spend bonded funds set aside for land acquisition.

The stewardship fund sets aside $60 million in bonds every year to purchase private land and protect it from private development through state ownership. The stewardship purchases are especially favored by anti-development groups.

But "it's not free money," noted Joint Finance Committee co-chair Dean Kaufert (R-Neenah). "You have to pay the bonds back."

Wisconsin is already experiencing a budget crunch, as the state is expected to run a $3.2 billion deficit over the next two years. With the state already spending $5 million every year to pay off previous land purchases, the Joint Finance Committee was unwilling to spend still more money, bonded or not, to take over private citizens' property.

Although the Committee separately approved a $2.9 million program to buy more than 1,000 acres of railroad corridors and turn them into nature trails, it was unwilling to spend another $60 million this year on other acquisition proposals.

Among the more noteworthy proposals rejected by the Committee were a plan to spend nearly $1 million on a mile-long corridor to link two pre-existing nature trails, and a nearly $2 million grant to help the Nature Conservancy pay off debt on land it acquired three years ago.

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Whitman

Continued from page 1

Until the *Draft Report on the Environment*, EPA under Whitman had supported or remained silent on every doom-and-gloom scenario trumpeted by the liberal environmentalists. Rather than stand up for sound science and defend her own agency's record, Whitman repeatedly catered to and appeased the professional environmental advocates whose primary business is to scare the public into giving them money.

"Good and Getting Better"

EPA's new report gathered data from nearly every agency of the federal government, most states, and many Indian nations. It proves, beyond doubt, the truth of what Bjorn Lomborg, author of *The Skeptical Environmentalist,* has been saying since his own research turned him around: "Our environment is good and getting better all the time."

- Air pollution in the U.S. has fallen 25 percent over the past 30 years—despite dramatic increases in the number of people and automobiles here and a significantly larger economy. More than 80 percent of U.S. metropolitan areas boast continuously improving air quality: Air quality standard violations were down 70 percent in 2001 from the figure recorded in 1988.
- Toxic chemical releases are down 50 percent in the past 15 years. Cleanups are underway at more than half of our worst toxic waste sites.
- Only 4.3 percent of the nation's available land has been developed. Over the three decades covered by EPA's report, the country has experienced no net loss of forest acreage. Forests currently cover 33 percent of the United States, and nearly a million net acres are added to that forest cover every year.
- In the Great Lakes region, the number of bald eagle nests has increased sevenfold—from 50 in 1961 to 366 when last counted in 2000. Old mining ponds across the country—once highly contaminated and fit for neither man nor beast—now commonly are excellent fishing holes.

Who Gets the Credit?

This is not to say the job of environmental cleanup, effectively launched with EPA's creation in 1971, is complete. Indeed, environment protection by its very definition can never end, and advances can still be achieved.

For example, 6 percent of the U.S. population has substandard drinking water. Nearly one-third of our surface stream miles are not quite fishable and swimmable, which was the goal of the initial Water Pollution Control Act of 1972 (now amended and called the Clean Water Act).

But the bottom line remains: Our nation has never in its history had a cleaner environment, nor one that was progressing at such a positive rate.

Do liberal environmentalists admit any of this? Only very rarely ... and when they do, they give 100 percent of the credit to command-and-control government policies and their own incessant, time-consuming, self-serving lawsuits.

In fact, the environmental success story Whitman reported is due to the efforts of countless U.S. citizens working to improve every aspect of the air we breathe, the water we drink, and the land we live upon. Our environment has prospered because we as a nation have prospered, giving us discretionary income to spend on things beyond the basic necessities of food, clothing, and shelter.

Around the world, there is a readily identifiable, direct correlation between economic output and expenditures on environmental improvement. Nothing shows this better than the environmental disasters prevalent throughout the old Soviet Union, when socialism failed both the people and their environment.

Today, a strong case can be made that the anti-capitalist environmental lobby is *impeding* environmental progress rather than encouraging it. Terribly counterproductive laws, such as the Endangered Species Act and wetland amendments to our water laws, have served only to endanger our freedoms and undercut honest efforts to preserve species and wetlands alike.

What we need now is a free-market environmental strategy that rewards good deeds rather than punishing what the liberal environmentalists and their representatives in government see as misdeeds. Congress is beginning to see the wisdom of this approach, with numerous programs underway to empower people to help protect our environment and encourage industries to reduce emissions even further and put brownfields to productive use.

EPA's *Draft Report on the Environment* must find its way to the reading list of every thinking American. If it gets wide distribution, Administrator Whitman's term in office will have been a bigger success than any of us might have imagined.

Dr. Jay Lehr is science director for The Heartland Institute. His email address is **e3@e3power.com**.

INTERNET INFO

The full 167-page text of EPA's *Draft Report on the Environment*, meant for "general reading," and the 453-page *Technical Document*, which presents the "scientific foundation" for EPA's conclusions, are available on the EPA Web site at **http://www.epa.gov/indicators/roe/html/roePDF.htm**.

To receive a print-out of the *Draft Report* by mail, send $7.00, payable to The Heartland Institute, 19 South LaSalle Street #903, Chicago, IL 60603.

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Dr. Jay Lehr is an internationally renowned motivational speaker, scientist, and author. He is considered the world's leading authority on groundwater hydrology. Dr. Lehr is currently Senior Scientist with Environmental Education Enterprises and Science Director for The Heartland Institute, a nonprofit think tank based in Chicago, Illinois.

"Jay Lehr is an outstanding communicator, his knowledge of his subject is superb and his delivery is very engaging. He held the rapt attention of our audence."

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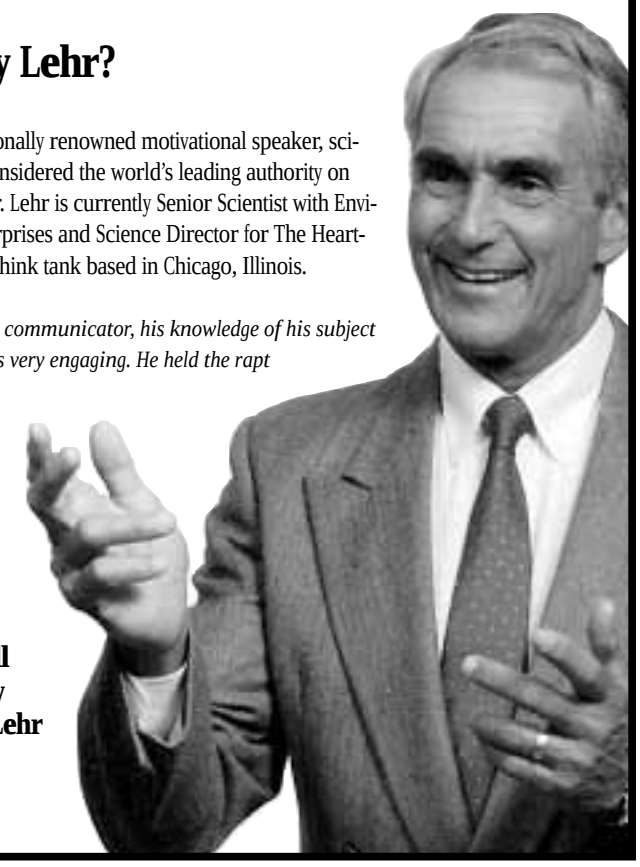

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Air Quality

Continued from page 1

Virtually the entire nation is now in compliance with federal standards for sulfur dioxide, nitrogen dioxide, carbon monoxide, and lead. Most of the nation also meets the particulate matter standard, though a more stringent new standard will pose further challenges in the years ahead. This progress, though quite noteworthy, received only passing attention by ALA.

"The PRI-AEI chapter on air quality better summarized EPA's data on air pollution over the past three decades and reported undeniably positive trends nowhere to be found in ALA's report."

Ambient levels of ozone, the primary constituent of smog, have fallen as well, but not as dramatically as the others. Thus, ozone offers the best target for those wishing to sound alarms. And even on ozone, ALA painted a misleadingly negative picture.

The ALA report concluded "137 million Americans ... are living in counties with an unhealthy amount of ozone," but it did so by concocting a grading scale more stringent than anything EPA uses. ALA assigned Fs to some counties in full compliance with agency smog standards, cherry-picking the highest ozone readings and giving failing grades even where the overwhelming majority of measurements were below the federally accepted threshold.

Media Takes the Bait

Dozens of local news outlets took the bait, reporting their city or county had received an air quality F. Nationally, the media coverage accepted ALA's verdict on air as fact, and few questioned why the advocacy group's conclusions differ from those reached by EPA and others.

Several news stories also ran with ALA's claim that the Bush administration is making matters worse with "threats to roll back Clean Air Act provisions," as well as assertions that current pollution levels are strongly linked to childhood asthma and pose a dire threat to the sick and elderly.

More Accurate Analysis

Though it received far less publicity, PRI-AEI's *2003 Index of Environmental Indicators* was more accurate and more informative than the biased ALA report.

The PRI-AEI chapter on air quality better summarized EPA's data on air pollution over the past three decades and reported undeniably positive trends nowhere to be found in ALA's report. For example, the number of times EPA's Air Quality Index was exceeded fell by nearly 50 percent over the past decade alone.

The PRI-AEI study also countered assertions from ALA and others that increases in childhood asthma are caused primarily by air pollution. The facts show childhood asthma rates have risen at the same time air pollution levels have been falling. Globally, the air pollution/asthma association is further weakened by studies showing low asthma rates in heavily polluted nations like Mexico, China, and India, and higher rates in virtually pollution-free countries such as New Zealand.

The policy lesson of the asthma/air quality research is clear: If efforts to fight asthma are to be successful, they must not obsess over outdoor air quality, but instead should address all potential contributing factors, including such indoor air quality factors as cockroach allergens, animal dander, and dust.

Policy Implications

While the ALA report called for a host of costly new crackdowns on remaining air pollutants, the authors of the *2003 Index of Environmental Indicators* conclude progress to date has been impressive and that additional "major air-quality improvements are nearly certain to be achieved over the next decade."

In particular, the PRI-AEI report authors note, the "turnover of the auto fleet to newer vehicles with vastly lower emission rates than older cars and trucks" will almost certainly lead to continued declines in ozone and other air pollutants in the years to come. Further government-mandated air quality control measures, especially those that come at high cost, could do more public health harm than good by drawing resources away from more pressing concerns.

Unfortunately, good news is no news when it comes to the environment, and few journalists covered the PRI-AEI study. Nonetheless, it is important to assess the current state of air quality honestly and accurately if future policy decisions are to bring more benefits than costs.

Ben Lieberman is director of clean air policy with the Competitive Enterprise Institute in Washington, DC. His email address is **blieberman@cei.org**.

INTERNET INFO

The American Lung Association's *State of the Air: 2003* can be found on the Internet at **http://lungaction.org/reports/stateoftheair2003.html**.

The *2003 Index of Environmental Indicators*, issued jointly by the Pacific Research Institute and American Enterprise Institute, can be found online at **http://www.aei.org/publications/bookID.407/book_detail.asp**.

Horinko Is Named Interim EPA Administrator

James M. Taylor

Senior EPA official Marianne Horinko was appointed on July 10 as the second interim EPA Administrator to serve since Christie Whitman's resignation. Horinko replaces Linda Fisher, the EPA deputy administrator under Whitman, who replaced Whitman briefly prior to Fisher's own resignation.

Horinko has spearheaded a variety of high-profile EPA activities, including the post-9/11 World Trade Center cleanup, EPA's post-9/11 anthrax efforts, the recovery of wreckage from the space shuttle Columbia, and the Bush administration's brownfields legislation.

"She has proven herself very able to walk tightropes and work with the different interest groups, as well as with business and industry interests," said Whitman.

Horinko is "an experienced professional we have worked with in the past, and we look forward to working with her" in her new position, said Mike Cantanzaro, a spokesman for Sen. James Inhofe (R-Oklahoma), chairman of the Senate Environment and Public Works Committee.

Fisher had submitted her resignation letter before Whitman left office, but agreed to lead EPA for two weeks while President Bush searched for another interim leader. Fisher said in her resignation letter she had considered it an honor to serve under the President, but was looking forward to spending more time with her family.

Meanwhile, speculation continues as to the most likely permanent replacement for Whitman. Idaho Republican Governor Dirk Kempthorne is frequently mentioned as the leading candidate, but Bush's decision to name Horinko rather than Kempthorne as the interim administrator surprised many observers.

Whitman's resignation and the selection of a permanent successor present the White House "with an outstanding opportunity to choose a leader who can bring the agency into the 21st century," said Fred Smith, president of the Competitive Enterprise Institute. "Now is the time for a clear-thinking reformer to overhaul the increasingly outdated legal and regulatory structure that EPA continues to labor under."

Added Smith, "This is the most important regulatory appointment in the administration and we need someone who can develop thoughtful, innovative environmental policy. Every EPA administrator, with the exception of Lee Thomas, has been part of the environmental establishment, and they have not been effective in moving environmental policy forward. There should be no rush to nominate someone from the same old faces. We need to pick someone from outside the establishment to make any progress."

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Planning Is a Tool, Not a Goal

Wendell Cox

Local government officials often lament the fact that "not enough planning" has gone on in their communities. Like virtue, urban planning seems to be considered by many as an end in itself.

But planning is neither an inherent good nor an inherent evil. Fundamentally, planning is a means to other ends. Regardless of who the planner is—a family sketching out its vacation, a Fortune 500 firm setting its budget, or government officials at any level—plans make possible the achievement of results. Plans are *not* the result itself.

Planning and Poverty

At least at the international level, planning has been more often associated with failure and poverty than with success and affluence. Seventy years of planners' dictates reduced the proud and talented Russia to virtual Third World status. The society that gave the world Tolstoy and Tchaikovsky couldn't plan how to put bread on the table.

Worldwide, other societies that took a wrong turn toward national planning are changing direction. All that slows them down, it seems, is caution by their ruling elites, who profit by running whatever is left to be run.

For at least 50 years, the United States has sought to bring lower-income households, especially minorities, into the economic mainstream. For at least 70 years, we have tried to maximize home ownership. These two objectives are closely related, because so much of the nation's wealth is created by home ownership.

"The thrust of contemporary urban planning might make sense if we were bees or ants. But we aren't. And if we were, there would be no need for planning, since all of this would come naturally."

Billions of dollars in spending and reams of anti-poverty legislation and regulation make clear that it is a national priority in the U.S. to open the doors of opportunity to those who have been left outside. While substantial gains have been made, much remains to be done.

Urban Planning vs. Equal Opportunity

With equal opportunity such a high priority in America, one might expect even urban planners to aim for that goal. It is quite disturbing, then, to discover the current urban planning orthodoxy—which operates under the label "smart growth" (a misnomer, as it is neither smart nor growth-enhancing)—works at cross-purposes with our interest in growing a more inclusive society.

The principal urban planning strategies have to do with rationing land and development, establishing urban growth and service boundaries, and imposing impact fees. Virtually all economists agree that the price of what is rationed goes up. Housing prices are no exception. A recent Harvard University study found much of the difference in housing costs from one region of the country to the next is the result of restrictive land use regulation.

"Smart growth" has meant fewer households are able to climb on board the economic engine of home ownership. They are denied access to the home equity wealth that for other Americans finances education for the kids or new business starts. Community also suffers under the misguided hand of urban planners, because home ownership gives people a greater stake in their neighbors and their neighborhoods.

Take Your Pick

We can't have it both ways. Either we want to reduce poverty in this country, or we want to achieve a particular city form that makes planners feel warm and fuzzy as they pedal around town.

Urban planning should be responsive, not prescriptive. It should respond to the needs and desires of people, not seek to impose standards of behavior on them. The thrust of contemporary urban planning might make sense if we were bees or ants. But we aren't. And if we were, there would be no need for planning, since all of this would come naturally.

It is time for planners to get back to basics. "People-last" planning has no place in a nation claiming to have a "government of the people, for the people, and by the people."

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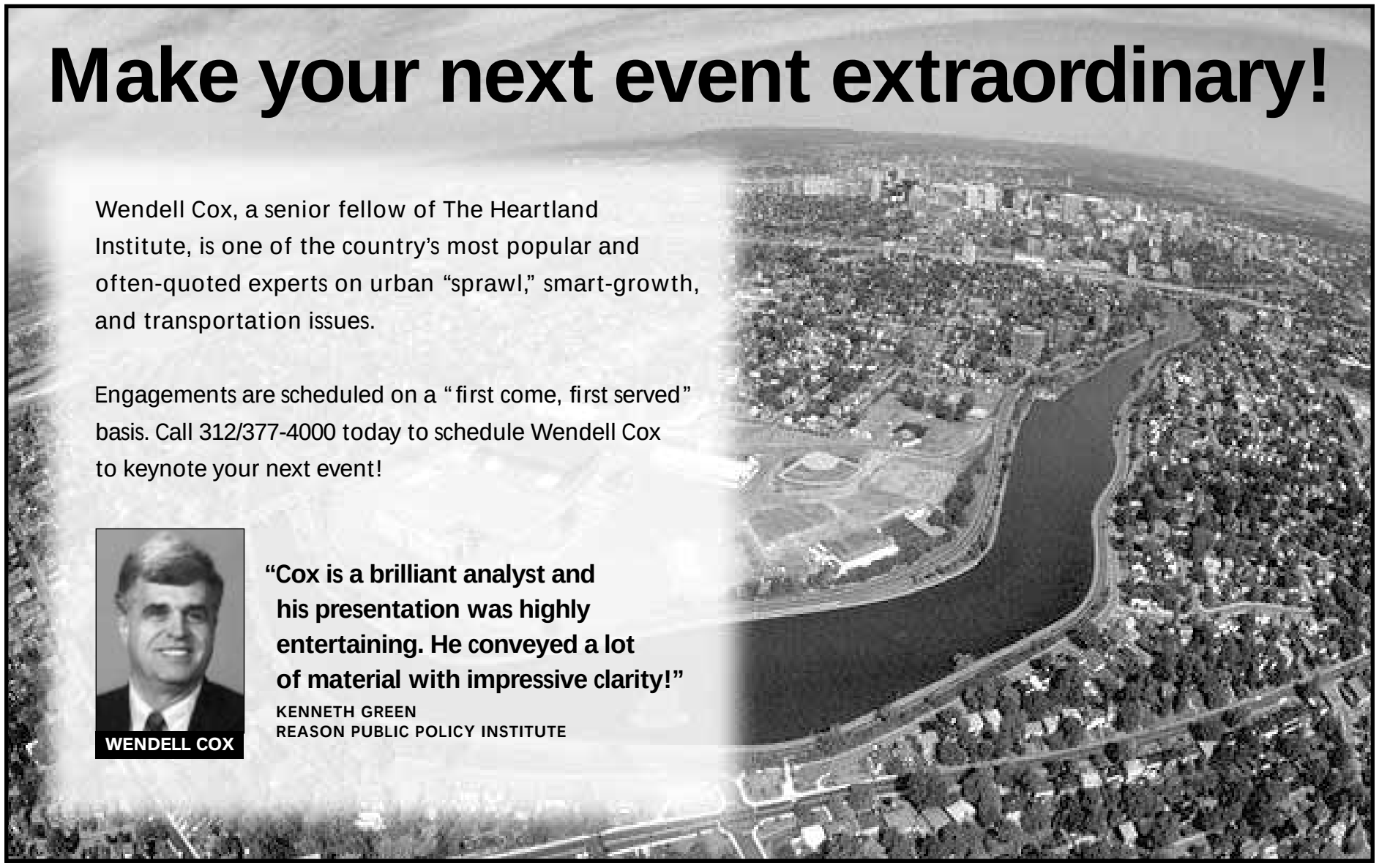
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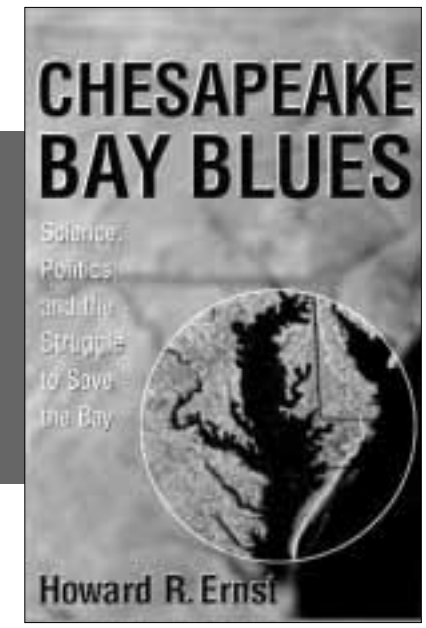
BOOK REVIEW

by Dr. Jay Lehr

Chesapeake Bay Blues

Chesapeake Bay Blues:
Science, Politics, and the Struggle to Save the Bay

Howard R. Ernst
Rowman & Littlefield Publishers, 2003
224 pages
$22.95 paperback



Howard Ernst is an assistant professor of political science at the U.S. Naval Academy, which might explain the scientific and political biases evident in this very interesting book ... but it does not.

One would expect a Naval officer to be conservative, but clearly Ernst is a liberal. One would expect a political scientist to be weak on environmental science, but this is actually Ernst's greater strength. He does a marvelous job of accurately defining the Chesapeake Bay and its physical, chemical, and biological inputs and outputs.

Historical Reality

However, after describing 30 years of multi-government failure to protect the Bay, Ernst nevertheless insists greater centralized government control, rather than domestic and industrial incentives, is the way to achieve eventual improvement. He sounds much like other liberal politicians who, in spite of the 70-year failed experiment of command-and-control government in the Soviet Union, are certain they can "get it right" this time in the United States.

Ernst has provided an excellent history of natural resource conservation. He explains that as far back as 1651, William Penn decreed that for every five acres of land cleared in Pennsylvania, one acre must be left in its natural state. Early in the 18th century, Massachusetts, Connecticut, and New York had passed laws protecting wild game. Long before Earth Day—when the environmental movement began to evolve into a liberal political movement—our nation cared deeply for its natural resources.

Ernst sees environmental protection as a tug of war between industrial interests and public good. He sides with those who believe environmental threats cannot be solved through private actions.

"Since 1970," Ernst writes, "environmental politics has become an institutionalized part of American political life at every level of government." He fails to recognize, however, that the environment was the loser in this marriage. Politics, far more than concern for the environment, has come to drive most environmental decision-making, with disappointing and sometimes disastrous results.

Chesapeake Bay Facts

The Chesapeake Bay and its tributaries cover more than 4,500 square miles (which is not 41 million acres, as the author asserts, but just under 3 million acres) and are estimated to include 18 trillion gallons of water. The Bay is 200 miles long and 35 miles across at its widest point. It has 11,700 miles of shoreline. Its watershed covers 64,000 square miles in six different states (Delaware, Maryland, New York, Pennsylvania, Virginia, and West Virginia), with 150 rivers and streams draining the area.

The Bay itself is a relatively shallow body of water, averaging less than 21 feet in depth, with nearly 200,000 acres less than 6 feet deep. As with all bays that meet the ocean, it has a salinity gradient from fresh to salty, which creates a variety of excellent fishing opportunities, the most prominent of which is the famous blue crab, to which the author devotes nearly a third of the book.

Too Many Cooks

Virtually no one at any point on the political spectrum has been satisfied with efforts to keep the best quality of water flowing into the Bay. The watershed's population has nearly doubled, from 8 to 15 million people, in the past 50 years, and the environmental pressures are great.

Since 1983, when the Environmental Protection Agency initiated a major Chesapeake Bay program, $282 million in federal funds have gone to a variety of state, local, and non-governmental organizations to facilitate cleaning and protecting the Bay. In addition, each of the six Bay-area states contributes significant funds for the same purpose. Maryland leads the way, with current annual expenditures of $630 million.

The old adage "too many cooks spoil the broth" is the controlling factor in 30 years of chaos and failure to effectively protect the Bay. Diverse business, industrial, domestic, environmental, and political interests are represented by myriad political entities, producing gridlock and waste. Still, Ernst insists throughout that command-and-control politics can be the eventual solution.

Seeking Balance

From a scientific standpoint, management of the Bay is not rocket science. In its natural state the system worked remarkably well.

Nutrients from forest land entered the Bay through its tributaries, feeding a healthy population of phytoplankton and underwater grasses, which in turn supplied a prolific food chain of aquatic life. But with increasing human population and the expansion of the area's agriculture and industry, nutrient input has led to massive increases in nitrogen and phosphorus, which have overwhelmed the ecosystem.

In his more objective moments, Ernst accurately defines the problems and technical solutions. Among the key issues he recognizes:

- How can the Bay's blue crabs be saved ... without harming the men who harvest them?
- How can nutrient levels in the Bay be reduced ... without adversely affecting agriculture?
- How can environmental impacts be reduced ... without stifling growth and real estate prices?
- How can sewage treatment plants be improved ... without bankrupting local governments?
- How can the Bay's restoration be funded ... without derailing the region's economy?

While he is extremely harsh on agriculture's role in upsetting the balance of the Bay, Ernst proposes solutions that would be reasonable and effective. They include forest and grass buffers along streams, conservation tillage and cover crops, contour farming, fertilizer management plans, retirement of erodable land, stream protection from livestock by fencing, and improved animal waste management.

For reduction of human inputs into the Bay, Ernst calls for sensible phosphate-free detergents, biological nutrient removal systems at sewage treatment plants, more efficient septic systems, emission control technologies, and animal feed additives to improve waste composition.

Unfortunately, Ernst also espouses myriad wrong headed "smart-growth" policies that serve only to obstruct individual freedom, increase the cost of housing, and do nothing to improve the quality of the environment.

Head in the Sand

Ernst narrates like an ostrich whose head is buried in the sand ... or a Naval officer barricaded behind the stone walls of Annapolis. He calls for environmental groups to rise up and take aim at alleged evils being perpetrated on the Bay by industry. What else have the liberal environmental scaremongers been doing the past two decades, if not exactly that?

He praises and calls for more rapid implementation of EPA's Total Maximum Daily Load (TDML) component of the revised Clean Water Act, which most sensible people wish would go away. The TDML provision was slipped into the Act a few years ago through legislative legerdemain by the Clinton administration after open debate on the bill had ended. It created a bureaucratic morass and data-gathering nightmare that does nothing more than increase the power of government while reducing the rights of its citizens.

Sadly, the author's concluding "ten measures to improve politics for the Bay" are shortsighted and wrong-headed socialistic rhetoric. They will lead to 30 more years of ineffective efforts to protect Chesapeake Bay.

My very critical view of the author's myopia aside, Ernst has done a good service for all of us interested in the Chesapeake Bay by telling its fascinating story.

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EDITORIAL

James Taylor

An Unnecessary Energy Crisis

James M. Taylor

Since 1998, virtually all newly constructed power plants have been designed to run on natural gas.

Not that it is any cheaper to produce power from natural gas—in fact, coal and oil are generally cheaper. But the federal government, under pressure from environmental activist groups, has utilized a multitude of carrot-and-stick measures to encourage greater use of natural gas.

The problem, as Federal Reserve Chairman Alan Greenspan and Energy Secretary Spencer Abraham have pointed out, is that we must obtain all this natural gas from somewhere. An increase in natural gas demand must be met by a corresponding increase in natural gas supply.

This shouldn't pose much of a problem, because America is blessed with huge natural gas fields. However, the same liberal environmentalists who have pressured the government to discourage coal and oil use are now pressuring the government to keep America's natural gas reserves off limits to recovery. Roughly 40 percent of U.S. natural gas reserves are already off limits.

The result of these cross-purpose efforts is an intensifying, artificial shortage in natural gas supplies. The price of natural gas is up by as much as 700 percent over the past three years. This is not only hurting American consumers with their home heating bills, but it is also hurting job creation, as industry must spend more of its money paying unnecessarily high prices for fuel.

Tail-Chasing

The most ironic result of the artificial natural gas shortage is that power plants are switching back to coal and oil as a result of the steep increase in natural gas prices. By cordoning off so much of America's natural gas reserves, allegedly to protect the environment, liberal environmentalists are ensuring America uses more oil and coal than would otherwise be the case.

Discouraging the use of oil and coal was the reason these groups pressured the government to encourage the use of natural gas in the first place. One can't help get the image of a dog running around in circles chasing its tail.

The initial premise behind the switch to natural gas is that oil and coal use is creating an unhealthy environment. This premise is as dated as "That 70s Show."

According to EPA 1998 statistics (just before the large-scale switch to natural gas), atmospheric soot is down roughly 67 percent from 1970 levels. Carbon monoxide emissions are roughly 20 percent lower than in 1970. Sulfur dioxide is down roughly 37 percent from 1970 levels. And lead emissions are down more than 90 percent since 1970.

Remarkably, these reductions in air pollution were realized during a time period when American energy consumption increased by 40 percent, U.S. Gross Domestic Product rose by 150 percent, and the nation's population grew by tens of millions. In short, the air is cleaner today than at any time in recent memory, and it is getting cleaner all the time.

Indeed, the Bush administration's Clear Skies Initiative is expected, by 2018, to further reduce sulfur dioxide by 73 percent, nitrogen oxides by 67 percent, and mercury emissions by 69 percent.

A Natural Resource Blessing

Such improvements in air quality are largely the result of technological advances in the use of coal and oil.

For example, coal has long been demonized as an unclean fuel source. However, new coal combustion processes remove pollutants—or prevent them from even forming—when coal burns; advanced scrubbers clean pollutants from smokestack flues before they can enter the environment; and new plants can convert coal into a gas that has the same environmental characteristics as natural gas. Similar technologies have been making oil burn ever-cleaner as well.

According to the U.S. Department of Energy, "Coal is truly America's energy strength. It is to the U.S. what crude oil is to Saudi Arabia." With today's technology, there is no environmental justification for turning our back on such a natural resource blessing.

To be sure, our environment is one of America's most valuable assets, and environmental considerations should factor in to all of our economic activity and decision-making. But creating a costly, artificial energy crisis to address a nonexistent environmental problem is sheer folly—with or without the tail-chasing.

James M. Taylor is managing editor of Environment & Climate News. *His email address is* **taylor@heartland.org**.

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